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**Security Council
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**Report of the International Criminal Tribunal for the
Prosecution of Persons Responsible for Genocide and
Other Serious Violations of International Humanitarian
Law Committed in the Territory of Rwanda and
Rwandan Citizens Responsible for Genocide and Other
Such Violations Committed in the Territory of
Neighbouring States between 1 January and
31 December 1994**

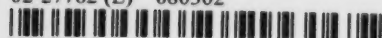
**Identical letters dated 4 March 2002 from the Secretary-General
addressed to the President of the General Assembly and the
President of the Security Council**

You will remember that, in my letter dated 14 September 2001 (A/56/265-S/2001/764 and Corr.1), I drew to your attention and to the attention of the members of the General Assembly and of the Security Council a letter, dated 9 July 2001, from the President of the International Tribunal for Rwanda, Judge Navanethem Pillay (*ibid.*, annex).

In the report that was attached to her letter, President Pillay made certain projections, in the light of information supplied by the Prosecutor, of how the activities of the International Tribunal for Rwanda were likely to evolve in terms of the conduct of trials. She concluded that, if the Tribunal were to maintain its current structure, it would need a considerable period of time to complete the trials of all those whom it could be anticipated might be prosecuted before it. To address that situation, President Pillay and her colleagues on the bench of the International Tribunal for Rwanda proposed that the judicial capacity of the Tribunal should be enhanced through the establishment of a pool of *ad litem* judges.

By a letter dated 6 February 2002 (see annex), President Pillay has informed me that the Prosecutor has recently provided her with revised information regarding her investigations programme. I am attaching President Pillay's letter for your consideration and for the consideration of the members of the General Assembly and of the Security Council.

In her letter, President Pillay reports that the Prosecutor has advised her that, following a further review of her investigations programme, she has significantly



reduced the number of new accused whom she envisages that she might possibly prosecute before the International Tribunal for Rwanda.

President Pillay notes that certain changes accordingly need to be made in the projections of the Tribunal's future trial activities that were contained in the report attached to her letter of 9 July 2001. Corresponding changes also need to be made in the summary that was attached to that report. An amended summary incorporating those changes is attached to President Pillay's letter.

I would be grateful if you would bring the present letter and its attachments to the attention of the members of the General Assembly and of the Security Council.

(Signed) Kofi A. Annan

Annex

Letter dated 6 February 2002 from the President of the International Tribunal for Rwanda addressed to the Secretary-General

Reference is made to our proposal for the creation of a pool of ad litem judges, submitted to you on 9 July 2001 (A/56/265-S/2001/764, annex, appendix), which is currently under consideration by the Security Council.

We are concerned that the delay occasioned in reaching a decision on our proposal is causing a setback to our trial schedule for this year. I have held discussions with the Prosecutor, Carla Del Ponte, on the concerns raised by the Security Council with regard to her future investigative programme and urged that the programme be revised. The Prosecutor subsequently, in a letter dated 31 January 2002, submitted an outline of her revised prosecution strategy. In this regard, I note the following:

(a) The Prosecutor has submitted a proposal to amend the Tribunal's Rules of Procedure and Evidence to provide for suspects and accused to be transferred for trial to national jurisdictions. Such transfers will relieve the caseload of the Tribunal and expedite the completion of its mandate. I will table this proposal at the next plenary;

(b) The Prosecutor has indicated that no new investigations will be undertaken by her office after the year 2003, and all investigations will be terminated by the year 2004;

(c) The Prosecutor has reduced the number of suspects/accused under investigation from the original number of 136 to 111.

The Prosecutor has stressed that, in relation to the revised number of new investigations (111), the same qualifications apply as in relation to her previous number (136). In particular, she states that there may not be sufficient evidence to support indictments "in a significant number of cases" and that not every indicted person will be arrested. Consequently, it is my understanding that the actual number of new accused will be significantly lower than 111, but that the Prosecutor is unable to give further clarifications at this juncture.

Taking the figure of 111 as a point of departure, it should be recalled that in paragraph 15 of the request (paras. 25-27 of the attachment containing supporting statistics), it was stated that the Prosecutor's original estimate of 136 new accused and approximately 45 new trials would involve 10 new trials every year up to 2005. Using the same average figure of three accused per trial as in the request, 111 new accused would require approximately 37 new trials, a reduction of 8 trials.

Paragraph 31 of the attachment contained three possible rates for successful arrests of new accused (100, 75 and 50 per cent). As mentioned above, an arrest rate of 100 per cent is quite unlikely. The Prosecutor's new estimate provides a basis for revising the original figures as follows:

(a) If 50 per cent of arrests are effected, approximately 55 accused will be added, or approximately 19 new trials. This implies a reduction of 4 trials (from 23 to 19);

(b) If 75 per cent of arrests are effected, approximately 83 accused will be added, or approximately 28 new trials. This implies a reduction of 6 trials (from 34 to 28).

Paragraph 32 of the attachment addressed the number of mandates required to conclude trials of 136 new accused with the present resources. Using the revised figures, if 75 per cent of the new 111 accused were arrested (83 persons), then three new mandates after 2007 would still be required, although presumably trials would be expected to conclude during the course of the mandate. Should 50 per cent of the accused be arrested (55 persons), then two four-year mandates would be required after 2007 (2015).

Paragraph 37 of the attachment set out estimates upon the introduction of ad litem judges. Assuming that the reform is fully implemented by the beginning of 2003, the following estimates may be made:

(a) If 50 per cent of the suspects in the Prosecutor's revised estimate are arrested, the extra 19 trials could be completed by the end of the third mandate (2007) or early in the fourth mandate (2008);

(b) If 75 per cent of the suspects in the Prosecutor's revised estimate were arrested, the extra 28 new trials could be completed in the fourth mandate (2008-2009).

Consequently, the Prosecution's reduction of the number of new accused from 136 to 111 has a limited impact on the likely completion dates of the work of the Tribunal. The new figures will, however, assist the Tribunal in completing its mandate around 2007-2008.

It must be emphasized that, irrespective of the number of new accused who will actually be transferred to Arusha, it is indispensable for the Tribunal to obtain ad litem judges in order to speed up the trials against the number of accused who are already detained in Arusha, some of whom have been detained for several years. We have recently been informed by the Prosecutor that several of these cases will soon be ready for trial. As mentioned in the request, the trial chambers have very limited capacity to start new trials, with the ongoing 7 trials against 17 accused. The implementation of the ad litem reform is required as a matter of urgency so that trials may start as soon as the prosecution and the defence are ready to proceed, rather than having to wait months until one or all of the existing trial chambers have the capacity to start new cases.

Please find enclosed an updated version of the summary contained in the appendix to my letter dated 9 July 2001 (see appendix).

I respectfully request that these new facts be placed before the General Assembly and the Security Council for consideration.

(Signed) Judge Navanethem Pillay
President

Appendix

Revised summary of the request for ad litem judges

Since the first trial started in 1997, the trial chambers of the International Tribunal for Rwanda have rendered eight judgements in respect of nine accused. A total of 7 trials involving 17 accused are in progress. Consequently, 26 of the 54 persons brought before the Tribunal so far (of whom 46 are detained in Arusha and 6 are serving their sentence elsewhere) have either received judgement or are in trial. With the available resources, the trial chambers cannot complete their roll of present cases before 2006-2007, the end of the Tribunal's third mandate.

The Prosecutor has communicated her future investigation programme to the President of the Tribunal, and has subsequently revised her prosecution strategy. This makes it possible to project the possible completion of trials. The Prosecutor intends to arrest up to 111 new accused by 2004, but has stressed that there may not be sufficient evidence to support indictments "in a significant number of cases", and that not every indicted person will be arrested. Consequently, the actual number of new accused can be expected to be significantly lower than 111. Depending on the actual number of indictments and arrests, the Tribunal will be able to complete all trials in the first instance by 2015 (on a 50 per cent arrest rate) by 2018-2019 (75 per cent) or 2020 (100 per cent) with the present resources. Such time frames are not acceptable.

The present draft amendments to the Tribunal Statute in respect of ad litem judges largely follow the solution adopted in Security Council resolution 1329 (2000) for the International Tribunal for the Former Yugoslavia. However, it is proposed that the ad litem judges also be empowered to adjudicate in pre-trial proceedings and that a trial chamber section be composed of ad litem judges only. This is important to avoid delays.

The reform, if implemented in full by the end of 2002, will enable the Tribunal to complete all cases against the present detainees by approximately the end of 2004. The completion of the trials against the projected 111 accused, depending on the arrest rate, will be: 2007-2008 (50 per cent), 2008-2009 (75 per cent) and 2011 (100 per cent).

The creation of a pool of ad litem judges is a more cost-effective solution than continuing with only three trial chambers beyond the decade. In order to save costs, the judges envisage that the chambers will work in shifts.

**General Assembly
Security Council**Distr.: General
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General Assembly**Tenth emergency special session****Agenda item 5****Illegal Israeli actions in Occupied East Jerusalem and the
rest of the Occupied Palestinian Territory****Security Council****Fifty-seventh year****Identical letters dated 6 March 2002 from the Permanent
Observer of Palestine to the United Nations addressed to the
Secretary-General and the President of the Security Council**

The Israeli military campaign being waged against the Palestinian people continues unabated, and is indeed intensifying, pursuant to the declaration by Israeli Prime Minister Ariel Sharon to, inter alia, carry out "an aggressive and continuous campaign without let-up". Today, the Israeli occupying forces, using all means of heavy weaponry, launched air, land and sea attacks against numerous Palestinian targets throughout the Occupied Palestinian Territory. The Palestinian death toll rose today as a result of the Israeli attacks, which killed a total of 13 Palestinians. These attacks also caused extensive physical destruction of the already battered Palestinian infrastructure, including the demolition of at least three Palestinian homes.

Among the Palestinian targets damaged by Israeli fire today was the home of President Yasser Arafat in Gaza City. The President's home, as well as a United Nations school for the blind, suffered severe damage as Israeli helicopter gunships fired missiles at a Palestinian security facility in the area. In other assaults carried out by the occupying forces, including by F-16 warplanes, two Palestinian police stations in Gaza were destroyed, including a building used by the Palestinian police chief. Israeli naval gunboats also launched strikes against a Palestinian naval base in Gaza, killing four Palestinian officers.

Further, the Israeli occupying forces deployed numerous tanks into the area of the Palestinian villages of Abassan and Karrara, which also came under attack by helicopter gunships. Israeli forces prevented ambulances from reaching the wounded in the attacks, which killed three Palestinian civilians, including a 40-year-old woman. Moreover, at least 14 Palestinians were abducted during the Israeli raid, and occupying forces overtook three apartment buildings in a refugee camp in one of the villages.

The intensification of the bloody Israeli military campaign, characterized by a continuous barrage of air, land and naval strikes, against the Palestinian people and the Palestinian leadership has resulted in rising numbers of Palestinian dead and



wounded and threatens to reach disastrous proportions. The international community, particularly the Security Council, is duty-bound to take action to bring an immediate end to the human rights violations, war crimes and State terrorism being perpetrated against the Palestinian people by the Israeli occupying forces. It cannot continue to stand idly by as the cycle of violence rages and situation in the Occupied Palestinian territory continues to deteriorate and jeopardize the stability of the entire region.

In follow-up to our previous 103 letters to you regarding this escalating crisis in the Occupied Palestinian Territory, including Jerusalem, dated from 29 September 2000 to 5 March 2002 (A/55/432-S/2000/921; A/55/437-S/2000/930; A/55/450-S/2000/957; A/55/466-S/2000/971; A/55/474-S/2000/984; A/55/490-S/2000/993; A/ES-10/39-S/2000/1015; A/ES-10/40-S/2000/1025; A/ES-10/42-S/2000/1068; A/ES-10/43-S/2000/1078; A/ES-10/44-S/2000/1093; A/ES-10/45-S/2000/1104; A/ES-10/46-S/2000/1107; A/ES-10/47-S/2000/1116; A/ES-10/48-S/2000/1129; A/ES-10/49-S/2000/1154; A/ES-10/50-S/2000/1173; A/ES-10/51-S/2000/1185; A/ES-10/52-S/2000/1206; A/ES-10/53-S/2000/1247; A/ES-10/54-S/2001/7; A/ES-10/55-S/2001/33; A/ES-10/56-S/2001/50; A/ES-10/57-S/2001/101; A/ES-10/58-S/2001/131; A/ES-10/59-S/2001/156; A/ES-10/60-S/2001/175; A/ES-10/61-S/2001/189; A/ES-10/64-S/2001/209; A/ES-10/65-S/2001/226; A/ES-10/66-S/2001/239; A/ES-10/67-S/2001/255; A/ES-10/68-S/2001/284; A/ES-10/69-S/2001/295; A/ES-10/70-S/2001/304; A/ES-10/71-S/2001/314; A/ES-10/72-S/2001/332; A/ES-10/75-S/2001/352; A/ES-10/76-S/2001/372; A/ES-10/79-S/2001/418; A/ES-10/80-S/2001/432; A/ES-10/81-S/2001/447; A/ES-10/82-S/2001/463; A/ES-10/83-S/2001/471; A/ES-10/84-S/2001/479; A/ES-10/85-S/2001/486; A/ES-10/86-S/2001/496; A/ES-10/87-S/2001/504; A/ES-10/88-S/2001/508; A/ES-10/89-S/2001/544; A/ES-10/90-S/2001/586; A/ES-10/91-S/2001/605; A/ES-10/92-S/2001/629; A/ES-10/93-S/2001/657; A/ES-10/94-S/2001/669; A/ES-10/95-S/2001/686; A/ES-10/96-S/2001/697; A/ES-10/97-S/2001/708; A/ES-10/98-S/2001/717; A/ES-10/99-S/2001/742; A/ES-10/100-S/2001/754; A/ES-10/101-S/2001/783; A/ES-10/102-S/2001/785; A/ES-10/103-S/2001/798; A/ES-10/104-S/2001/812; A/ES-10/105-S/2001/814; A/ES-10/107-S/2001/821; A/ES-10/108-S/2001/826; A/ES-10/111-S/2001/880; A/ES-10/112-S/2001/918; A/ES-10/114-S/2001/928; A/ES-10/115-S/2001/932; A/ES-10/116-S/2001/941; A/ES-10/117-S/2001/971; A/ES-10/118-S/2001/989; A/ES-10/119-S/2001/991; A/ES-10/121-S/2001/1007; A/ES-10/122-S/2001/1024; A/ES-10/123-S/2001/1036; A/ES-10/124-S/2001/1084; A/ES-10/125-S/2001/1092; A/ES-10/126-S/2001/1118; A/ES-10/128-S/2001/1149; A/ES-10/129-S/2001/1166; A/ES-10/133-S/2001/1239; A/ES-10/134-S/2001/126; A/ES-10/136-S/2002/18; A/ES-10/137-S/2002/39; A/ES-10/138-S/2002/48; A/ES-10/139-S/2002/58; A/ES-10/140-S/2002/89; A/ES-10/141-S/2002/95; A/ES-10/142-S/2002/102; A/ES-10/143-S/2002/121; A/ES-10/144-S/2002/142; A/ES-10/145-S/2002/146; A/ES-10/146-S/2002/165; A/ES-10/147-S/2002/175; A/ES-10/148-S/2002/182; A/ES-10/149-S/2002/186; A/ES-10/150-S/2002/214; A/ES-10/151-S/2002/223 and A/ES-10/152-S/2002/232), it is my regret to inform you that a total of 13 Palestinians, including children, were killed today by the Israeli occupying forces. (The names of the martyrs are contained in the annex to the present letter.) Their deaths raise the number of Palestinians killed since 28 September 2000 to 998 martyrs.

I would be grateful if you would arrange to have the text of the present letter and its annex distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(Signed) Dr. Nasser Al-Kidwa
Ambassador
Permanent Observer of Palestine to the United Nations

**Annex to the identical letters dated 6 March 2002 from the
Permanent Observer of Palestine to the United Nations addressed
to the Secretary-General and the President of the Security Council**

**Names of martyrs killed by Israeli occupying forces in the
Occupied Palestinian Territory, including Jerusalem^a
(Wednesday, 6 March 2002)**

1. Abdel Razik Mahmoud Khidr Astity
 2. Lo'ai Fathi Amin Dabaya (14 years old)
 3. Jamil Al-Sabbagh
 4. Maher Hamada
 5. Ahmed Abu Taher
 6. Mohammed Al-Qumu'
 7. Mofida Abu Daqa
 8. Abdel Ghany Abu Daqa
 9. Mohammed Al-Rajoub
 10. Jamal Abu Hamad
 11. Mahdy Al-Qaisy (18 years old)
 12. Yehia Al-Da'amasa
 13. unidentified
-

^a The total number of Palestinian martyrs killed by Israeli occupying forces since 28 September 2000 is 998.





Security Council

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Letter dated 1 March 2002 from the Chairman of the Security Council Committee established pursuant to resolution 864 (1993) concerning the situation in Angola addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 864 (1993) concerning the situation in Angola, which was adopted by the Committee under the no-objection procedure on 1 March 2002 and is being submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234).

(Signed) Richard Ryan
Chairman
Security Council Committee established
pursuant to resolution 864 (1993)
concerning the situation in Angola



Annex

Report of the Security Council Committee established pursuant to resolution 864 (1993) concerning the situation in Angola

I. Introduction

1. The present annual report of the Security Council Committee established pursuant to resolution 864 (1993) concerning the situation in Angola covers the period from 1 January to 31 December 2001.
2. A report of the Committee covering its activities from January to December 2000 was submitted to the Security Council on 28 December 2000 (S/2000/1255).
3. For 2001, the bureau consisted of Richard Ryan (Ireland) as Chairman, with the delegations of Colombia and Singapore providing the two Vice-Chairmen.
4. The Committee held 11 formal and 6 informal meetings during 2001.

II. Background information

5. The first range of sanctions — arms and petroleum embargoes — were imposed against the União Nacional para a Independência Total de Angola (UNITA) by the Security Council in resolution 864 (1993) on 15 September 1993. In resolution 1127 (1997), adopted on 28 August 1997, the Council imposed a travel ban on senior officials of UNITA and adult members of their immediate families as designated by the Committee, the closure of UNITA offices, the prohibition of flights of aircraft by or for UNITA, and the supply of any aircraft, aircraft components, or aircraft servicing to UNITA. Some exemptions were established with regard to medical emergencies and flights carrying supplies for essential humanitarian needs, as approved by the Committee.
6. In its resolution 1173 (1998) of 12 June 1998, the Security Council decided to expand the measures imposed against UNITA. These measures required States, except Angola, to freeze UNITA funds within their territory and ensure that those funds were not made available directly to or for the benefit of UNITA as an organization or of senior officials of UNITA or adult members of their immediate families, as designated pursuant to paragraph 11 of resolution 1127 (1997). It also required states, in areas of Angola to

which State administration had not been extended, to take the necessary measures to prevent all official contacts with UNITA leadership; prohibit import of diamonds from Angola not controlled through the Government's Certificate of Origin; prohibit the sale or supply to persons and entities in areas of Angola to which State administration had not been extended, of equipment used in mining or mining services as well as motorized vehicles or watercraft or spare parts for such vehicles, or ground or waterborne transportation services.

7. In its resolution 1295 (2000), adopted on 18 April 2000, the Security Council requested the Secretary-General to establish a monitoring mechanism to collect additional relevant information relating to violations of the sanctions measures, including to investigate any relevant leads initiated by the Panel of Experts, and to report periodically to the Committee with a view to improving the implementation of the measures imposed against UNITA. In resolution 1237 (1999), adopted on 7 May 1999, the Council established a Panel of Experts with a six-month mandate to trace violations regarding arms, petroleum, and diamonds, as well as the movement of UNITA funds.
8. On 11 July 2000, the Secretary-General appointed the five-member Monitoring Mechanism and selected Ambassador Juan Larrain (Chile) as its Chairman (S/2000/677). In addition to Ambassador Larrain, Ms. Christine Gordon (United Kingdom), Mr. James Manzou (Zimbabwe), Mr. Ismaila Seck (Senegal) and Ambassador Lena Sundh (Sweden) were appointed as members of the Mechanism. The mandate of the Mechanism has been extended on three occasions.
9. On 23 January 2001, the Security Council by resolution 1336 (2001) decided to extend the mandate of the Mechanism for a period of three months and requested the Secretary-General to reappoint up to five of the experts appointed by him pursuant to resolution 1295 (2000). On 29 January the Secretary-General wrote to the President of the Security Council informing him that he had re-appointed all five experts (S/2001/91). On 19 April 2001, in resolution 1348 (2001), the Council decided to extend the mandate of the Mechanism for a period of six months and

requested the Secretary-General to appoint up to five experts to serve on the Mechanism. On 31 May, the Secretary-General wrote to the President of the Security Council informing him that he had reappointed four of the experts (S/2001/537). On 9 July 2001, the Secretary-General appointed Mr. Wilson Chisala Kalumba (Zambia) (S/2001/676) to replace Mr. Manzou, who was unable to continue to serve on the Mechanism. On 19 October 2001, in resolution 1374 (2001), the Council decided to extend the mandate of the Mechanism for a period of six months and requested the Secretary-General to appoint four experts to serve on the Mechanism. On 24 October 2001, the Secretary-General wrote to the President of the Security Council informing him that he had reappointed four members of the Mechanism (S/2001/1009). Ambassador Sundh was unable to continue to serve on the Mechanism.

10. Since its establishment, the Mechanism has submitted four reports to the Security Council through the Committee. The first, interim report (S/2000/1026) was submitted to the Security Council on 24 October 2000, a final report (see S/2000/1225 and Corr.1 and 2) on 21 December 2001, an addendum to the final report (see S/2001/363) on 16 April 2001 and a supplementary report (see S/2001/966) on 12 October 2001. In resolution 1374 (2001), paragraph 4, the Council called upon the Committee to examine the recommendations contained in the Mechanism's last three reports and to offer guidance to the Mechanism on its future work. In paragraph 5, it also requested the Mechanism to provide the Committee within 60 days of the adoption of the resolution with a detailed action plan for its future work, in particular, but not exclusively, on sanctions on UNITA diamonds, violations of arms sanctions, and on UNITA finances.

III. Summary of the Committee's activities during the reporting period

11. At the beginning of 2001, members focused on the Committee's future work, in particular considering the final report of the Monitoring Mechanism (see S/2000/1225 and Corr.1 and 2). The Committee gave full consideration to the report at its 28th, 29th and 30th meetings, held, respectively, on 21 December 2000 and 18 and 26 January 2001. The introduction to the report analysed the situation in Angola and

subsequent sections covered the issues of arms, diamonds, restrictions imposed on UNITA representation and on travel of its senior officials and their family members, and the role of transport in sanctions-busting. Annex B to the report contained a list of senior UNITA officials and their family members. Ambassador Larrain, when introducing the report, stressed the importance of two particular recommendations made in the report: (a) the possibility of taking measures against countries found to be intentionally violating sanctions; and (b) the need for continued vigilance in monitoring the implementation of sanctions. At its 29th meeting, the Committee also discussed the extension of the mandate of the Monitoring Mechanism.

12. On 20 February 2001, the Chairman wrote, at the request of the Committee, to the European Union and to the Economic Community of West African States (ECOWAS), drawing their attention to the relevant paragraphs of the final report of the Monitoring Mechanism and requesting their observations on the concerns expressed in the report, in particular regarding possible abuse by UNITA officials of the Schengen Agreement and ECOWAS travel documents. In a separate note verbale, the Chairman also requested all Member States to provide the Committee with details of any action taken by them to follow up on the conclusions and recommendations contained in the final report, paragraph 244. As of 31 December 2001, the Committee had received a limited number of responses to its request.

13. On 22 February 2001, an open meeting of the Security Council was held to discuss the Mechanism's final report. The members of the Council and 15 non-members, including Angola, which was represented by the Minister for External Relations, Mr. João de Miranda, commented on the report and its conclusions (see S/PV.4283). The debate confirmed that the issue and the effectiveness of sanctions against UNITA continued to be of concern to Member States.

14. On 12 April 2001, at the 33rd meeting of the Committee, the Chairman reported on his visits to Angola, Namibia, Portugal, South Africa and Zambia, during the period 22 March to 6 April 2001, where he met with representatives of Governments, political parties, non-governmental organizations and the diplomatic communities. He noted that he had received in the countries visited a sense of commitment at the highest levels to the implementation of sanctions. The

Chairman also informed the Committee of the Angolan Government's appreciation of the Security Council's commitment to the implementation of the sanctions regime against UNITA. At the same meeting, the Committee discussed the addendum to the final report of the Monitoring Mechanism (see S/2001/363), finalized on 11 April 2001. Based on the Mechanism's recommendation, the Committee decided, *inter alia*, on 12 April 2001 to recommend that a private company be contracted by the United Nations to trace UNITA assets. Subsequently, on 19 April 2001, the Chairman of the Committee provided an oral report to the members of the Security Council at its informal consultations about his visits to the above-mentioned countries.

15. On 28 June 2001, at the 35th meeting of the Committee, the Chairman reported on his visits to Bulgaria, Romania, the Russian Federation, Ukraine, and the United Kingdom during the period from 4 to 15 June. He reported on discussions with representatives of these countries, in particular, on the issues of arms and diamonds trafficking. Subsequently, at its informal consultations on 5 July 2001, he reported orally about these visits to the members of the Security Council.

16. On 28 September 2001, the Committee approved an updated list of senior UNITA officials and adult members of their immediate families, which was issued on 2 October 2001 as a press release. The list was forwarded to all 189 Member States and relevant international organizations, together with a note by the Chairman of the Committee dated 11 October 2001, requesting them to inform the Committee of the action they had taken with respect to the list in the light of the relevant provisions of resolutions 1127 (1997) and 1173 (1998), which imposed representation, travel and financial sanctions. On 4 December 2001, the Chairman wrote to Member States again requesting them to report to the Committee on the specific action taken with respect to the list of UNITA senior officials and adult members of their immediate families by 14 January 2002. At its 38th meeting, held on 20 November 2001, the Committee agreed that the responses received would be studied by the Monitoring Mechanism.

17. On 12 October 2001, at its 36th meeting, the Committee began its consideration of the supplementary report of the Monitoring Mechanism on sanctions against UNITA (see S/2001/966). A draft resolution of the Security Council to extend the

mandate of the Mechanism was circulated at the meeting.

18. On 19 October 2001, the Committee issued a press release stating that the Government of Angola, in accordance with paragraph 19 of Security Council resolution 864 (1993), for the purposes of the implementation of the sanctions against UNITA, had identified two additional points of entry into Angolan territory: (a) the town of Soyo, Zaire Province, and (b) the port of Cabinda, Cabinda Province.

19. On 4 December 2001, the Committee sent letters to the European Union and ECOWAS, reiterating its concern at possible abuse by UNITA officials of the Schengen Agreement and ECOWAS travel documents and requesting again their respective observations on the issues raised in the letters sent to them on 20 February 2001.

20. On 11 December 2001, at its 39th meeting, the Committee completed its consideration of the recommendations contained in the Mechanism's last three reports in accordance with paragraph 4 of resolution 1374 (2001). The Committee also stressed the importance of efforts made outside the framework of the United Nations for the implementation of the sanctions against UNITA. In this regard, the Committee expressed its interest in a report on progress made at the Kimberley Process which was to be submitted to the General Assembly at its fifty-sixth session pursuant to Assembly resolution 55/56 of 1 December 2000. On behalf of the Chairman of the Committee, a representative of the Permanent Mission of Ireland attended several meetings held within the Kimberley Process, in Brussels from 25 to 27 April 2001; in Moscow from 3 to 5 July 2001; in London from 11 to 13 September 2001; and in Gaborone from 28 to 29 November 2001. Copies of the final communiqués of those meetings were forwarded to members of the Committee for their information. At the same meeting, the Committee considered the Mechanism's draft action plan requested by the Council in resolution 1374 (2001). The Committee agreed that the Chairman would brief members of the Security Council regarding the implementation of paragraphs 4 and 5 of resolution 1374 (2001).

IV. Summary of the activities of the Monitoring Mechanism

21. During the three-month mandate period to 19 April 2001, members of the Monitoring Mechanism visited Angola, Belgium, Botswana, the Democratic Republic of the Congo, Côte d'Ivoire, France, the Gabon, Italy, Namibia, Kenya, South Africa, the Sudan, and the United Republic of Tanzania. In Angola, Ambassador Larraín met with members of the Government, who observed that UNITA's military capability was being adversely affected by the sanctions. The Mechanism also visited the headquarters of the Southern African Development Community (SADC). The Chairman met with the acting Executive Secretary of SADC and discussed action taken by SADC to fulfil its tasks under Security Council resolution 1295 (2000).
22. In April, the Mechanism submitted to the Committee its programme of work for the period of its mandate to 19 October 2001. The Mechanism placed priority on following up new leads on alleged sanctions violations that could not be pursued under its earlier mandate owing to time constraints, and on communications with Member States on alleged sanction violations. The Mechanism accorded importance to the commissioning of a professional asset tracer to investigate the assets and finances of UNITA. The Mechanism also placed emphasis on continuing consultations with Governments and subregional, regional and international organizations to improve the implementation of sanctions against UNITA.
23. On 16 April 2001, the addendum to the final report of the Monitoring Mechanism on Sanctions against UNITA was submitted by the Chairman of the Committee to the President of the Security Council (S/2001/363), in accordance with Security Council resolution 1336 (2001). The addendum covered various aspects of the implementation of the sanctions regime against Angola, with the exception of the financial assets and transactions of UNITA, which the Mechanism later investigated with the assistance of the private asset-tracing company. In the addendum, the Mechanism primarily updated its information on the regions where UNITA was most active, covered measures taken by the Government of Angola to control diamond exports in order to curb illicit trafficking, and identified companies and brokers involved in trafficking arms to UNITA. The Mechanism observed that the implementation of the recommendations contained in its final report continued to be urgent and necessary. The addendum was discussed at the 33rd and 34th meetings of the Committee, held on 12 and 26 April 2001, at which Ambassador Larraín answered questions raised by members of the Committee.
24. The Mechanism sent questionnaires to all Member States, seeking information on the measures they had put in place to promote and strengthen the implementation of sanctions against UNITA. Communications were also sent to a number of Member States, seeking more information on UNITA senior officials cited in the final report as residing in their territories. While some countries responded promptly to the Mechanism's enquiries, a number of responses remained outstanding.
25. In early June 2001, the Monitoring Mechanism travelled to Brussels to discuss recent events with representatives of relevant ministries, including the High Diamond Council. Ambassador Larraín also visited Vienna, where he met with officials of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. Wassenaar officials reiterated their interest in cooperating with the Monitoring Mechanism. The Wassenaar Arrangement has established a working group to consider matters relating to end-user certificates. Ambassador Larraín then met with representatives of the International Criminal Police Organization (Interpol) in Lyon, France, which is cooperating with the United Nations in combating diamond- and weapons-trafficking networks in Africa, particularly in Angola.
26. On 25 June 2001, Ambassador Larraín held a preliminary meeting with the representatives of the private asset-tracing company that had been approved by the Committee to trace financial assets of UNITA. The company agreed to the terms of the contract drawn up by the United Nations Secretariat. Consequently, the Mechanism was able to expand its base of inquiry by drawing upon the expertise of professional asset tracers to identify the financial resources held by UNITA.
27. On 8 October 2001, the Chairman of the Monitoring Mechanism submitted the Mechanism's supplementary report (see S/2001/966) in accordance with Security Council resolution 1348 (2001) to the

Chairman of the Committee. During the mandate period, the Mechanism pursued allegations of sanctions violations and continued its examination of the role of criminal elements instrumental to the capacity of UNITA to sustain its guerrilla war. Throughout this period, the Mechanism continued to conduct its investigations using the strictest evidentiary standards attainable. The report covered the implementation of the sanctions on UNITA; representation and the travel and residence of senior UNITA officials and their family members; the arms and petroleum embargo; and sanctions on UNITA diamonds and UNITA finances and asset tracing. During the period covered by the supplementary report, the Mechanism visited the following countries for consultations: Angola, Belgium, Botswana, Burkina Faso, Côte d'Ivoire, France, Kenya, Portugal, South Africa, the Sudan, the United Republic of Tanzania and Zambia. In addition, correspondence was addressed to a number of Member States, seeking information or clarification on allegations of sanctions violations. The Committee discussed its contents at its 36th and 37th meetings, held on 12 October and 7 November 2001.

30. The Committee will continue to make additional efforts in cooperation with Member States and relevant international organizations to further enhance the effectiveness of sanctions against UNITA.

V. Observations

28. There is a broad consensus that, in 2001, the sanctions against UNITA continued to be effective in helping to reach their main objective — preventing UNITA from pursuing its objectives through military means. In this connection, the Committee wishes to reiterate its call on Member States to comply fully with the requirements contained in all relevant Security Council resolutions imposing sanctions against UNITA and in this regard to cooperate fully with the Committee and the Monitoring Mechanism on sanctions against UNITA.

29. The Committee reaffirms the importance of keeping sanctions under close and ongoing monitoring with a view to sustaining and improving their effectiveness until conditions in the relevant resolutions are met. In this regard, the Committee has noted the wide international recognition of the work of the Monitoring Mechanism on sanctions against UNITA, based on identifying the sources and methods of violations of the sanctions and offering practical recommendations for further action, as a continuing critical tool.



Security Council

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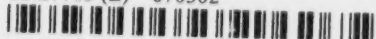
Letter dated 7 March 2002 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

I have the honour to refer to the open debate on the situation in the Middle East that took place in the Security Council on 26 and 27 February 2002, where all participants expressed deep concern over the vicious cycle of violence in Palestine and Israel. During this debate, the overwhelming majority of speakers agreed with the Secretary-General's assessment that the conflict risks sliding towards full-fledged war and urged the Security Council to work with both sides in resolving the conflict. Recent events seem to have confirmed our worst fears.

In my capacity as Chairman of the Coordinating Bureau of the Non-Aligned Movement, I have the honour to request the Security Council to consider inviting Prime Minister Ariel Sharon of Israel and President Yasser Arafat of Palestine to discuss the situation in the Middle East with the Security Council at the earliest possible opportunity. In light of the level of violence in the Middle East, we believe that it would be useful for the Security Council to hear a first-hand report on the situation on the ground in Palestine and Israel.

I would be grateful if you would circulate the present letter as a document of the Security Council.

(Signed) Dumisani S. Kumalo
Ambassador and Permanent Representative



**Security Council**

Distr.: General
8 March 2002

Original: English

**Progress report of the Secretary-General on
Ethiopia and Eritrea****I. Introduction**

1. The present report is submitted pursuant to Security Council resolution 1369 (2001) of 14 September 2001, by which the Council extended the mandate of the United Nations Mission in Ethiopia and Eritrea (UNMEE) until 15 March 2002. It provides an update on the deployment and activities of UNMEE, as well as on political, military, humanitarian and human rights developments since my report of 13 December 2001 (S/2001/1194).

**II. Status of the Temporary Security
Zone and adjacent areas**

2. The situation in the Temporary Security Zone remained generally calm during the period under review. The parties continued, with few exceptions, to respect the boundaries and integrity of the Zone. There were few incidents along the southern boundary and fewer allegations exchanged by the parties. UNMEE intensified its monitoring of the redeployed forces of Eritrea through two separate monitoring operations. In addition, UNMEE was able to improve its liaison relations with Eritrean commanding officers and liaison officers at the local level, particularly in Sectors East and West. As a result, despite continued restrictions on its freedom of movement in the adjacent area north of the Temporary Security Zone, UNMEE has acquired a good understanding of developments both inside the Zone and in the areas adjacent to it. There is no evidence so far of a change of posture by either party.

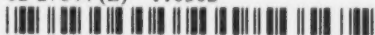
3. In accordance with the Agreement on Cessation of Hostilities, the security arrangements are to remain

in effect until delimitation and demarcation are completed. Accordingly, arrangements for the separation of forces, as achieved by the establishment of the Temporary Security Zone, will continue to be of crucial importance. Until the border demarcation has been completed, UNMEE will continue to discharge its mandate. In this connection, the public statement released by the President of Eritrea, Isaias Afwerki, on the implementation phase at the time of the Security Council mission is a source of concern.

Monitoring activities of the Mission

4. During the period under review, the monitoring operations provided the Mission with additional information on the positions and activities of Eritrean forces redeployed outside the Temporary Security Zone. At the tenth meeting of the Military Coordination Commission on 28 November, the Eritrean delegate agreed to visits to Eritrean Defence Force camps and units upon the condition of prior notification. As a result, UNMEE, accompanied by Eritrean liaison officers, visited a number of areas north of the Temporary Security Zone to which the Mission had previously not had access. That operation, although no substitute for freedom of movement, met with reasonable success despite the poor cooperation extended to UNMEE in the sector. These exercises, along with the Mission's pre-existing monitoring activities, increased the Mission's understanding of the overall situation on the ground, particularly in the areas adjacent to the Temporary Security Zone.

5. The Mission's monitoring activities showed that, although both parties carry out troop rotations, engage in routine readiness training, and continue to maintain or improve their positions, their posture remains



essentially defensive. Tension and suspicion continue to exist between the armed forces of the parties on the ground. Eritrean Defence Force units which were engaged in farming activities for the last few months in the west of the country have started returning to their permanent locations, many of which are in Sector Centre.

Incidents along the southern boundary of the Temporary Security Zone

6. During the reporting period, there were a few incidents in the Temporary Security Zone or along its southern boundary, including occasional accidental firing, alleged crossings of the southern boundary by Eritrean militia or patrols of the Ethiopian Armed Forces, alleged cattle-rustling, and alleged abduction of villagers from the border areas. In one incident, two Eritrean shepherds were killed by unidentified assailants inside the Zone, close to the southern boundary near Om Hajer in Sector West. In another incident in the Kalahua Hill area of Sector East, a brief exchange of fire south of the Zone between three Ethiopian soldiers and unknown assailants resulted in minor injuries to one of the soldiers. UNMEE is currently demining a route along the southern boundary in that area in order to patrol it more closely.

Militia and police inside the Temporary Security Zone

7. Despite its continued efforts, UNMEE has not succeeded in obtaining from the Government of Eritrea detailed information on the numbers, strength and disposition of Eritrean local militia and police inside the Temporary Security Zone. Ethiopian military authorities have continued to protest about the numbers of the militia and police, and to state that they are actually drawn from regular Eritrean Defence Force units. UNMEE estimates in this connection that the overall numbers of Eritrean police and local militia inside the Zone have remained roughly constant at 9,600. The Mission has observed on the ground an occasional small-scale shift in militia and police deployment in certain areas, apparently in response to local security concerns.

8. At the same time, Eritrean police or militia units sometimes seek to deploy to new locations which, in the Mission's assessment, are located too close to the southern boundary of the Zone and could therefore destabilize the situation. One such instance is the

attempt on 5 February 2002 by the Eritrean police to establish a new observation post at Point 73 in Sector East, in very close proximity to the southern boundary of the Zone. UNMEE protested about this matter, explaining to the Eritrean authorities that, while that particular location is their sovereign territory, it would be unwise to deploy so close to the boundary as this could be interpreted as a provocation. Their numbers have remained roughly constant. In addition, the Mission continues to enjoy good cooperation from the police and militia on the ground, notwithstanding occasional violations of the Protocol on Militia and Police concerning the stockpiling of certain weapons and the requirement that militia and police present identification cards on demand.

Freedom of movement of the Mission

9. The Mission continued to experience restrictions on its freedom of movement, particularly in the adjacent area north of the Temporary Security Zone in Sector Centre. Despite the Mission's protests, Eritrean authorities at all levels maintain that UNMEE operations do not require freedom of movement outside the Zone. While these restrictions have eased in recent months in Sectors West and East, unfortunately little improvement has been registered in Sector Centre, where UNMEE continues to operate with minimal cooperation from the Eritrean Defence Force. Finally, the Eritrean authorities continue to restrict the Mission's freedom of movement in the air, denying United Nations aircraft the right to fly over certain locations north of the Zone.

10. On the Ethiopian side, UNMEE enjoys nearly total freedom of movement. In isolated instances, UNMEE patrols have faced restrictions in the Gheruserney and Killeli areas of Sector Centre. The Ethiopian military authorities have, however, been open and cooperative in resolving such problems. On rare occasions, UNMEE flights to particular areas have been denied.

11. Since my last report, there has still been no progress regarding the establishment of a direct high-altitude flight route for UNMEE aircraft between Asmara and Addis Ababa. Eritrea continues to maintain that UNMEE should fly the most direct route and refuses to make any other route available. The Ethiopian authorities insist, however, that UNMEE make a brief deviation from the most direct route to steer clear of anti-aircraft installations. Ethiopia has

allowed UNMEE to use any other route between the two countries. In the absence of an agreed direct route, UNMEE has been forced to fly between the two capitals via Djibouti, resulting in additional expenses to the Mission of more than US\$ 1.4 million to date. The flight deviations also have serious operational and security implications for UNMEE.

Cooperation with liaison officers and local commanders

12. Ethiopian senior liaison officers continued to be readily available to UNMEE on the ground, and liaison officers at the working level regularly accompany UNMEE patrols. The Eritrean authorities have reinstated senior liaison officers in all three sectors following the Mission's protest at their earlier withdrawal. However, the liaison system on the Eritrean side is effective only in Sectors East and West. In Sector Centre, problems have continued over the availability and language ability of the senior liaison officers in question. In addition, no liaison officers have been posted at the working level.

13. Regular meetings between senior UNMEE officials and corps and divisional commanders of both the Eritrean Defence Force and the Ethiopian Armed Forces have resulted in more positive relations with these key actors. At the working level, Ethiopian commanders have been more favourably disposed towards UNMEE unit commanders and more frequently available to meet with them. In the case of the Eritrean Defence Force, the Mission's relationship with commanders at the working level differs from sector to sector. In Sectors West and East, UNMEE is able to visit Eritrean Defence Force locations and meet with their commanders if it provides prior notification. In Sector Centre, Eritrean soldiers have cited specific instructions from higher authorities in denying UNMEE passage or access.

Military Coordination Commission

14. The tenth meeting of the Military Coordination Commission was held on 28 November 2001 at the Mereb River bridge, while the eleventh meeting was held on 5 February 2002 in Djibouti. In both cases, the Commission received a comprehensive briefing from the Force Commander on the military situation in the Mission area. At the tenth meeting, it discussed the military situation in detail as well as the earlier escalation of tensions at Serha in Sector Centre. The

parties were informed that UNMEE had received from each of them lists of designated sector-level officials responsible for the handling of unburied mortal remains. At the eleventh meeting, UNMEE reported on its monitoring of restricted areas north of the Temporary Security Zone, and on the continued challenges it faced. The Commission also discussed the issue of local incidents, such as those involving alleged abductions and cattle-rustling. UNMEE warned against the potential volatility, in the sensitive period ahead, of small incidents and words or deeds that could be considered provocative. I take this opportunity to express my appreciation to the Organization of African Unity (OAU) for its invaluable contribution to the work of the Military Coordination Commission.

Deployment of the Mission

15. During the period under review, there have been no major changes in the force deployment of UNMEE. The Irish Guard and Administration Company replaced the French Company on 14 December 2001. Of the 216 military observers in the Mission, representing 40 countries, 74 have been rotated since 13 December 2001. As at 5 March 2002, the total strength of the military component of UNMEE stood at 3,632 peacekeepers, 118 headquarters staff officers, and 212 military observers, for a total of 3,962 personnel (see annex II). The death in a road accident on 11 February 2002 of a Slovakian peacekeeper in Sector East is a grim reminder of the difficult conditions under which United Nations troops often operate.

Status-of-forces agreement

16. As at the time of writing, the Government of Eritrea has not signed the status-of-forces agreement, despite the request by the Security Council in resolution 1320 (2000) that the agreement be concluded by October 2000, as well as repeated appeals by myself and the Council. In accordance with Security Council resolution 1320 (2000), the model status-of-forces agreement is therefore in effect. Since my last progress report, I have once again requested the Government of Eritrea to consider signing the status-of-forces agreement with the United Nations without further delay, and suggested that we at the same time renew our efforts to find a mutually acceptable solution to the issue of HIV/AIDS. It should be recalled that the Government of Ethiopia signed a status-of-forces agreement on 22 March 2001.

III. Mine action

17. Landmines and unexploded ordnance remain a major threat to the population of the two countries and to United Nations and other humanitarian personnel operating on the ground. From December 2001 to mid-February 2002, five civilians were killed and six injured in incidents involving mines and unexploded ordnance in the Temporary Security Zone and the northern adjacent areas. These figures are tragic and indicative of the major work still required by mine action agencies in the Zone and adjacent areas.

18. On 22 January 2002, four children were killed and another four injured by an anti-personnel mine near Senafe in Sector Centre. This is by far the worst single mine accident in the Temporary Security Zone to date. The minefield was marked as a dangerous area and most of the children involved had received mine risk education training from non-governmental organization teams. This incident highlights the particular vulnerability of children to mines and unexploded ordnance. Children comprise the bulk of casualties from mine- and unexploded ordnance-related incidents. In the same area of Senafe, another mine resulted in the death of one policeman and caused serious injury to another on 8 January 2002. On 13 February, two demining personnel of the Eritrean Demining Agency were killed in a mine incident at Shilalo, in Sector West. The two men were working in a minefield when an anti-tank mine to which they were in close proximity exploded, killing one member instantly; the second member died on the way to the hospital.

19. Currently, more than 1,100 Eritrean mine action personnel work in the Temporary Security Zone; they are organized in 18 manual clearance groups, six mechanical clearance teams, six explosive ordnance disposal and survey units, 13 mine risk education teams, three survey and marking teams, and two explosive detection dog units.

20. Between 1 December 2001 and 28 February 2002, mine clearance teams set up by the Eritrean Demining Agency, the HALO Trust, the Danish Demining Group and Danish Church Aid cleared 2,133,369 square metres of minefield and battlefield areas in the Temporary Security Zone. The ordnance disposal teams of those organizations destroyed 60 anti-tank mines, 189 anti-personnel mines and 1,086 pieces of unexploded ordnance. Over the same period, Slovak,

Bangladeshi and joint Slovak-Kenyan military demining units of UNMEE continued to prove routes and to clear key operational sites in all three sectors. The units cleared a total of 163.6 kilometres of road and 675,718 square metres of operational sites.

UNMEE contingent ordnance disposal teams also destroyed 69 pieces of unexploded ordnance.

21. In close cooperation with the United Nations Children's Fund (UNICEF), as well as national and international non-governmental organizations, UNMEE continued mine risk education programmes for the local population of the Temporary Security Zone and its adjacent areas. In all, some 97,000 persons have so far attended the sessions. Training of volunteer facilitators who will conduct mine risk education in their local communities is continuing, and 245 volunteers have been trained thus far. In addition, 268 schoolteachers have been trained in mine risk education and are now giving lessons during regular school hours. Finally, 320 personnel from national and international non-governmental organizations have received landmine and unexploded ordnance safety training.

22. As you will recall from my last progress report, a series of meetings at the Ethiopian Ministry of Defence in October had resulted in the exchange of vital Ethiopian mine-related information. Having studied that information, UNMEE is seeking further clarification from the Ethiopian authorities on the types of mines used in the Temporary Security Zone and the adjacent areas, as well as more specific information on minefields already cleared by the Ethiopian Armed Forces. Delivery of this information has been promised in the near future and is eagerly awaited.

23. The UNMEE budget continues to provide for the core staff and equipment of the Mine Action Coordination Centre to enable it to carry out its coordination, technical advice and information management roles. The United Nations Mine Action Service and the United Nations Development Programme (UNDP) have released a strategy document on United Nations assistance to mine action in Eritrea. The document outlines goals, programmes and funding requirements for United Nations assistance during the emergency phase, as well as United Nations support for strengthening national capacity to mitigate the long-term effects of landmines. The success of this strategy depends upon continuing voluntary financial support

from the international community, which I strongly encourage.

24. The demining of access routes to the border area is progressing under the coordination of the UNMEE Mine Action Coordination Centre. Since mine clearing is an essential prerequisite to demarcation, planning by the Centre is well under way so that, once the location of boundary pillar sites is known, proposals can be developed to ensure that mine clearance required for demarcation can move forward without delay.

IV. Boundary Commission

25. Since my last report, the work of the Boundary Commission has generally been proceeding in accordance with its programme, and I understand that it intends to announce its decision on delimitation in the near future. Information on the recent activities of the Commission, provided by its President, is contained in annex I to this report.

26. As members of the Security Council are aware, the activities of the Boundary Commission continue to be financed from the disbursements made by the parties, and from the United Nations Trust Fund for the Delimitation and Demarcation of the Border, established pursuant to Security Council resolution 1177 (1998). Voluntary contributions to the Trust Fund currently total more than \$5.9 million, while expenditures incurred as at 31 January 2002 amount to \$912,000. I would like to express my appreciation to those Member States that have responded generously to my appeal for contributions to the Fund. At the same time, it is clear that additional, larger financial resources will be required for the demarcation of the border, once the Boundary Commission makes its determination on delimitation.

V. Humanitarian developments

27. The humanitarian situation throughout the Temporary Security Zone and the adjacent areas of Eritrea and Ethiopia has remained stable, enabling humanitarian programmes and agencies to undertake a wide variety of both emergency interventions and reconstruction activities. To date more than 180,000 internally displaced persons and over 38,000 refugees have been assisted by the Government of Eritrea and the international community to return to their areas of

origin inside the Temporary Security Zone. However, roughly 57,000 internally displaced persons are still unable to return to their homes, owing to the presence of mines or unexploded ordnance, insecurity or the fact that several villages are currently under Ethiopian administration.

28. Coordination remains an important aspect among all the players in the field who are working to bring the situation in Eritrea and Ethiopia out of an emergency phase and into a recovery-oriented phase. Now that the situation has stabilized, emergency operations go hand in hand with recovery and development programmes. In order to monitor these inter-linked programmes, several joint missions are being organized with UNMEE, United Nations agencies, donors and non-governmental organizations to project sites in the Temporary Security Zone, to review ongoing programmes and assess additional needs. It is an important aspect of coordination that donors, together with agencies, see how their funds are being utilized and what kind of assistance can still be provided.

29. From May 2001 to mid-February 2002, the Office of the United Nations High Commissioner for Refugees (UNHCR), under a tripartite programme with the Governments of Eritrea and the Sudan, repatriated 38,634 Eritrean refugees from the Sudan, and plans to assist 60,000 more Eritreans to return home in the course of this year. While continued repatriation is contingent upon stability in the region, the rains and other factors, the major challenge is the integration of the returnees into Eritrean society. In order to facilitate the process of reintegration, UNDP and UNHCR are working together to address the social and economic reintegration needs of returning refugees, internally displaced persons, expellees and other returning populations.

30. In the month of January 2002 alone, the Eritrean Relief and Refugees Commission reported distributing 12,700 tons of food from the World Food Programme (WFP) to over 795,000 war-affected people in the Debub and Gash Barka regions, including internally displaced persons and returnees from the Sudan. Despite the good rains in this fertile area, agricultural production was adversely affected by a general lack of manpower, seeds and tools. As a consequence, food assistance will be needed throughout 2002. On the basis of nutritional surveys carried out by the Eritrean Ministry of Health and non-governmental organizations, WFP has increased its distribution of

food rations to 100 per cent in the Gash Barka and Anseba zones. In addition, approximately 3,800 tons of food supplied by WFP was distributed to 195,000 drought-affected people in the northern and southern Red Sea regions. WFP will continue to support 800,000 vulnerable persons throughout 2002.

31. Supplementary feeding for children and pregnant and lactating women is ongoing both in and outside the Temporary Security Zone. More assessments are planned throughout the country to investigate the causes of malnutrition, which may result from factors other than lack of food.

32. Access to clean water continues to be one of the major priorities, particularly in the Temporary Security Zone where the water points were either destroyed or vandalized. Beyond the Zone, in the drought-affected areas, access to clean water remains a major challenge for the overall humanitarian community. UNICEF, UNDP, OXFAM and others are working to address the emergency requirements.

33. Polio eradication activities are ongoing both in and outside the Temporary Security Zone. A group of three Stop Transmission of Polio teams are in Eritrea to support the Ministry of Health in accelerating polio eradication activities in the country. In addition, the World Health Organization (WHO) is assisting the Ministry of Health to deal with the ongoing problem of malaria in the country.

Quick-impact projects

34. Quick-impact projects remain an important avenue of humanitarian assistance. Of the original \$700,000 included in the UNMEE budget for such projects, over \$693,000 has been approved for 64 projects in the Temporary Security Zone and the adjacent areas in Eritrea and Ethiopia. The projects cover programmes in water, health, education and various other small-scale interventions, and are being implemented by local and international non-governmental organizations, local administrations, United Nations agencies, UNMEE contingents and other partners. Of the 64 approved projects, 45 are being implemented and 19 have now been completed.

35. In July 2001, a special Trust Fund to Support the Peace Process in Ethiopia and Eritrea was established to enable UNMEE to continue its support of small projects and confidence-building measures. As mentioned in my last report, the Government of

Norway generously contributed approximately \$250,000, and I am pleased to report that since that contribution was received an additional 13 projects valued at \$180,000 have been approved. As we approach a new and critical phase in the peace process, interventions such as the quick-impact projects become even more important, and I therefore urge more donors to make contributions to this Fund.

VI. Human rights

36. UNMEE has continued to investigate allegations of cross-border expulsions and abductions. Initial reports of the expulsion of 77 civilians from Tigray State in Ethiopia proved unfounded after investigation. The civilians, who crossed the border into Eritrea voluntarily on 4 January 2002, indicated that discrimination against persons of Eritrean origin influenced their decision to leave Ethiopia. UNMEE conducted interviews of a cross-section of the residents of Eritrean origin remaining in the locality of their departure. Information obtained points to the continuing exclusion of Eritreans or persons of Eritrean descent from participation in community activities, and denial of access to social amenities, including humanitarian food aid. The Mission also investigated allegations that four teenage Eritreans were allegedly abducted and detained by Ethiopian authorities in November 2001. The four young people, aged 13 to 16 years, informed the Human Rights Office that they had left Eritrea of their own free will to avoid mandatory military service.

37. The repatriation of Ethiopians and persons of Ethiopian origin from Eritrea, assisted by the International Committee of the Red Cross (ICRC), has continued, although on a much reduced scale. A year ago, more than 1,000 persons were repatriated every week, while the last repatriation, on 1 February 2002, involved 134 persons. UNMEE interviewed three successive groups of persons repatriated to Ethiopia during the reporting period to ascertain the circumstances of their repatriation and the conditions under which persons of Ethiopian origin live in Eritrea. The interviews confirmed previous findings: those repatriated included individuals and families, most of whom reported that their decision to leave, although voluntary, was induced by the discrimination Ethiopians continue to face in Eritrea.

38. UNMEE interviews also showed that some of those repatriated were persons who had been held in prisons and other detention facilities, including irregular and unacknowledged detention facilities, for periods varying from a few days to several years. More than half of the 240 persons of Ethiopian origin repatriated by Eritrea with ICRC assistance on 14 December 2001 were former prisoners. The majority had been serving sentences imposed by the Special Court in proceedings that are not open to the public, and where the defendants reportedly have no legal representation. These people had been accused of offences ranging from petty theft to aircraft hijacking. The Government of Eritrea granted the prisoners amnesty on condition that they leave the country. A total of 254 persons have been repatriated to Ethiopia since my last report.

39. In the light of the forthcoming decision of the Boundary Commission on the delimitation of the border between the two countries, the Human Rights Office has focused attention on the situation of vulnerable communities in the border areas, and has increased its monitoring of the sensitive areas. At the same time, UNMEE has continued to engage the Governments of Eritrea and Ethiopia on human rights issues. On 9 January 2002, a meeting was held with the Eritrean Chief of Immigration for the purpose of seeking clarification of regulations and procedures in relation to the residence and repatriation of Ethiopians, and discussing human rights concerns arising from research into the situation of Ethiopians in Eritrea.

Release and repatriation of prisoners-of-war

40. The Governments of Eritrea and Ethiopia continue to hold prisoners-of-war and civilian internees despite their commitments to the contrary. On 15 January 2002, the Government of Eritrea released 25 prisoners-of-war, and expressed a readiness to release and repatriate all Ethiopian prisoners-of-war in accordance with the Algiers Peace Agreement and the Third Geneva Convention. On 18 February 2002, Eritrea released 25 more prisoners-of-war, while Ethiopia released 58 and two civilian internees. Since December 2000, a total of 937 Eritrean and 703 Ethiopian prisoners-of-war have been repatriated under ICRC auspices. However, more than 1,560 remain in Ethiopia and more than 320 in Eritrea. I once again call on both parties to abide by their obligation under the Algiers Peace Agreement and international

humanitarian law and release the remaining prisoners of war unconditionally and without delay.

VII. Public information

41. In the period under review, the Mission's Public Information Office continued to perform its core function of explaining and publicizing the Mission's mandate and work. In addition, the Mission continued to report on the peace process, and to address the concerns of internally displaced persons, with particular focus on mine awareness. The Office conducted regular press briefings (through a videoconference facility linking the capitals of the two countries), arranged interviews, and facilitated access to the Temporary Security Zone for members of the media.

42. Following the suspension in October 2001 of Radio UNMEE programmes by the Eritrean authorities, UNMEE is discussing with officials of the Eritrean Ministry of Information the terms of an agreement to resume transmission of Radio UNMEE broadcasts. It is understood that, for future broadcasts and collaboration between Radio UNMEE and Eritrean Radio, airtime and access to Eritrean airwaves will be free of charge. It is hoped that agreement will also soon be reached for Radio UNMEE programmes to be given free access on Ethiopian Radio. At the same time, Radio UNMEE programmes continue to be posted by the Department of Public Information on the United Nations web site in English and six local languages.

43. The Mission's public information strategy will focus increasingly, in the period ahead, on meeting the need to disseminate information to relevant population groups inside the mission area about the processes of delimitation and demarcation of the border between the two countries and about the role of the United Nations in this regard. To that end, UNMEE is in the process of establishing outreach centres in the border area, which will also have the task of reaching out to rural areas, market places and schools through mobile teams.

VIII. Confidence-building measures

44. From 13 to 15 February 2002, Eritrean and Ethiopian religious leaders held historic meetings in Asmara and Addis Ababa. This event was facilitated by Norwegian Church Aid and supported by UNMEE,

which provided air transportation for the two delegations to and from each other's capital. The religious leaders had held six separate meetings in Norway, Germany, the United States of America and Kenya leading up to this breakthrough. The delegations of the religious leaders on both sides were headed by the leaders of the Orthodox Church, the Catholic Church, the Islamic community and the Evangelical Church. In both countries, the delegations met with senior Government officials to deliver their message of peace. My Special Representative reassured the religious leaders of the Mission's support, and that of the United Nations as a whole, for their efforts in the quest for peace and reconciliation between the two countries and peoples. This was an important event in confidence-building efforts between the two countries, and augurs well for future initiatives of this kind. I encourage the parties to build on this commendable initiative.

IX. Financial aspects

45. The General Assembly, by its resolution 55/252 B of 14 June 2001, authorized me to enter into initial commitments for UNMEE in the amount of \$90 million (gross) for the period from 1 July to 31 December 2001. The budget for 2001-2002, as approved, is for \$198,400,000 (gross) inclusive of the \$90 million appropriated and assessed by the Assembly in that resolution. The proposed budget for 2002-2003 for the financing of UNMEE is to be considered by the Advisory Committee on Administrative and Budgetary Questions on 11 and 12 March 2002. As at 31 January 2002, unpaid assessed contributions to the special account for UNMEE amounted to \$128,414,037. The total outstanding assessed contributions for all peacekeeping operations at that date amounted to \$2,165,687,953.

X. Observations

46. With the Boundary Commission's decision on delimitation fast approaching, the leaders of Eritrea and Ethiopia should be commended for having left much of the war legacy behind them. The successful conclusion of the peace process on the basis of a legal settlement of the conflict will set an example for the rest of the African continent, and indeed the whole international community. I have no doubt that these two neighbourly

nations will greatly benefit from the peace and normalization of relations between them.

47. The delimitation and demarcation of the border represent an important milestone in the peace process, and I call on all Member States concerned, and OAU, to continue to support it, politically as well as financially. However, the implementation of the Boundary Commission's decision, which will be final and binding, will also continue to demand statesmanship on the part of the two Governments and their leaders. The success of the peace process to date is the result, first and foremost, of a close and determined adherence by the parties and the United Nations to the guiding provisions of the two Algiers Agreements. The period ahead should be no different: the ultimate success of the peace process depends on the continuing adherence to the letter and spirit of the Agreements in addition to the delimitation decision itself. The United Nations and its peacekeeping mission in Ethiopia and Eritrea will remain committed to playing a major role through delimitation and demarcation.

48. Undoubtedly, the Security Council mission to Ethiopia and Eritrea had a positive effect on the peace process. The views and observations presented in the report of the mission (S/2002/205) are fully consistent with my own, and I encourage members of the Council to reflect them in their forthcoming deliberations. The Council will no doubt continue to engage the parties and provide full support and assistance during the implementation of the delimitation decision. In the meantime, I recommend that the mandate of UNMEE be extended for six months, until 15 September 2002.

49. Depending on the outcome of the delimitation decision and the requirements for its implementation, I will revert to the Council with recommendations on the possible support which UNMEE could provide in this regard. In this connection, I will also take into account the contributions of the parties and the resources available in the Trust Fund for the Delimitation and Demarcation of the Border.

50. On 31 January, I wrote identical letters to President Isaias Afwerki and Prime Minister Meles Zenawi, conveying to them my view that the time had come to initiate discussions on a range of issues relating to the next phase of the peace process. Accordingly, my Special Representative has been instructed, in close cooperation with OAU, to

commence discussions with the two parties on the modalities and procedures for the smooth and expeditious implementation of the Boundary Commission's decision. My Special Representative followed up with the parties, and I encourage them to respond and provide their full cooperation to UNMEE in preparing for the next crucial phase of the peace process. In this context, I recommend that a wide-ranging mechanism aimed at consultation and problem-solving during the implementation of the delimitation decision be established. In addition to the parties and UNMEE, it would be useful if the guarantors, facilitators and witnesses were also included in such a mechanism.

51. While the Boundary Commission's decision is being implemented on the ground, it will be equally important to continue assisting the peoples of Eritrea and Ethiopia to overcome their humanitarian difficulties. Together with reconstruction and development, however, the two parties will need assistance to attain the ultimate objective of the peace process, namely reconciliation and normalization of their bilateral relations. The United Nations strongly supports confidence-building initiatives such as the meetings of the religious leaders, and encourages the parties to search for mutually agreeable ways of building trust through increased official and unofficial contacts with each other. The international community stands ready to assist the parties in this regard.

52. In conclusion, I wish to express my appreciation to my Special Representative, Legwaila Joseph Legwaila, and to all the military and civilian personnel of UNMEE, as well as to the staff of the United Nations country teams, humanitarian workers and representatives of non-governmental organizations operating on the ground, for their tireless efforts in promoting peace between Eritrea and Ethiopia. I would also like to express my gratitude for the invaluable support UNMEE has received from OAU and many Member States assisting in this important process, including troop-contributing countries.

Annex I

Eritrea/Ethiopia Boundary Commission

Fourth report on the work of the Commission

1. This is the fourth report of the Eritrea/Ethiopia Boundary Commission, covering the period from 1 December 2001 to 28 February 2002.
2. The period covered by this report is marked by two major advances in the work of the Commission.
3. First, the Commission held hearings at The Hague from 10 to 21 December 2001. Each party presented three rounds of argument and responded to questions put by the Commission.
4. Second, the Commission has, since the hearings, been actively engaged in deliberations and in the drafting of the decision on delimitation. There have also been extensive discussions between the Commissioners by correspondence. Although the Commission had originally anticipated rendering its decision by the end of February, the logistical aspects of completing such a decision, including the preparation of accompanying maps and figures, have led the Commission to revise its earlier estimate, and the decision is now expected to be rendered in the first half of April 2002.
5. Preliminary consideration is already being given to the demarcation stage of the Commission's work. As stated in the Commission's previous report, demarcation cannot begin until the prospective locations of boundary markers have been cleared of landmines. Such clearance cannot itself begin until the line of the boundary as delimited by the Commission is communicated to the parties. Thereafter, arrangements for mine clearance will be actively resumed.
6. Arrangements for the preparation of the 1:25,000 map on which the final demarcation will be marked, and which will thenceforth be the definitive boundary map, are in hand. Permission has been sought from the parties and from the neighbouring States of Djibouti and the Sudan for the overflights in the border region necessary to prepare the map, to be carried out after the delimitation decision. Both parties have already replied affirmatively.
7. The Commission expresses the hope that the Security Council, in its next resolution relating to the operation of UNMEE, will be able to extend the scope of the Mission's mandate expressly to enable it to assist the Commission in the demarcation stage of its activity and, in that connection, to accelerate the process of mine clearance.

(Signed) Sir Elihu Lauterpacht
President of the Commission
4 March 2002

Annex II

**United Nations Mission in Ethiopia and Eritrea:
contributions as at 5 March 2002**

	<i>Military observers</i>	<i>Staff officers</i>	<i>National support element</i>	<i>Troops</i>	<i>Total</i>
Algeria	8				8
Austria	3				3
Australia		2			2
Bangladesh	7	6		160	173
Benin	5	1			6
Bosnia and Herzegovina	9				9
Bulgaria	5	2			7
Canada	6				6
China	5				5
Croatia	5				5
Czech Republic	2				2
Denmark	4				4
Finland	7	2			9
France		2			2
Gambia	4	2			6
Ghana	9	7			16
Greece	2				2
India	5	20		1 373	1 398
Ireland		12	6	206	224
Italy	2	6		148	156
Jordan	6	16		944	966
Kenya	11	13		595	619
Malaysia	7	5			12
Namibia	3	2			5
Nepal	4				4
Netherlands		2			2
Nigeria	4	4			8
Norway	5				5
Paraguay	2				2
Peru	2				2
Poland	6				6
Romania	8				8
Russian Federation	6				6
Slovakia		3	3	197	203
South Africa	5	2			7

	<i>Military observers</i>	<i>Staff officers</i>	<i>National support element</i>	<i>Troops</i>	<i>Total</i>
Singapore	2				2
Spain	3	2			5
Sweden	7				7
Switzerland	4				4
United Republic of Tanzania	8	3			11
Tunisia	3	3			6
Ukraine	6				6
Uruguay	6				6
United States of America	6	1			7
Zambia	10				10
Total	212	118	9	3 623	3 962



Security Council

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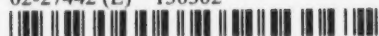
Original: English

Letter dated 6 March 2002 from the Secretary-General addressed to the President of the Security Council

You will recall that in my letter to you of 26 December 2001 I had informed members of the Security Council of my decision to authorize the commencement of the operation of the Special Court for Sierra Leone beginning with the dispatch of a planning mission.

In that letter I had also indicated that upon the return of the planning mission I would report to members of the Council on its recommendations on the organization of the start-up phase and all aspects of the establishment and operation of the Special Court. Please find attached in the annex to the present letter the report of the Planning Mission on the Establishment of the Special Court for Sierra Leone, which took place from 7 to 19 January 2002.

(Signed) Kofi A. Annan



Annex

Report of the Planning Mission on the Establishment of the Special Court for Sierra Leone

I. Introduction

1. In a letter addressed to the President of the Security Council on 26 December 2001, you informed the Council of your decision to authorize the commencement of the operation of the Special Court for Sierra Leone (Special Court) beginning with the dispatch of a planning mission to Sierra Leone.

2. The terms of reference of the Planning Mission approved by you were to discuss with the Government of Sierra Leone the practical arrangements for the establishment and operation of the Special Court, including, *inter alia*, the question of premises, the provision of local personnel and services, and the launching of the investigative and prosecutorial processes. The specific outcomes of the mission that were envisaged included the signing of the Agreement with the Government of Sierra Leone, laying the framework for the arrival of the members of the administrative and prosecutorial staff of the Special Court, and a report containing detailed recommendations on the organization of the start-up of the Special Court.

3. The Planning Mission, led by Ralph Zacklin, Assistant Secretary-General for Legal Affairs, visited Sierra Leone from 7 to 19 January 2002. The mission was composed of members of the Office of Legal Affairs, a Security Coordinator, a building management expert, an Interim Prosecutor and two investigators, an Interim Registrar, an administrative expert, a representative of the United Nations Office for Project Services (UNOPS) in the region and representatives of Member States who are members of the Management Committee of the Special Court (see paras. 45-47 below). The complete list of members of the Planning Mission is contained in appendix I to the present report. Hans Corell, Under-Secretary-General for Legal Affairs, the Legal Counsel, joined the mission on 13 January 2002. The Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone (see appendix II) was signed on 16 January 2002 by Hans Corell and the Attorney General and Minister of Justice of Sierra Leone, Solomon E. Berewa, in the presence of the President of Sierra Leone, Ahmad Tejan Kabbah.

4. The Planning Mission interfaced with a Government of Sierra Leone task force headed by Solomon E. Berewa and carried out its activities at both the plenary and the working group level.

5. At the plenary level, the Planning Mission met several times with the government task force. The mission visited the High Court and a number of proposed locations for the permanent premises of the Special Court and detention facilities. Meetings were also held with the police and prison authorities, members of the Bar Association and representatives of civil society and human rights non-governmental organizations. The mission also travelled to the provinces and the regional capitals of Bo and Kenema where it met with the Paramount Chiefs, local government officials and NGOs. In Koidu, the capital of Kono District, it met with representatives of the Revolutionary United Front (RUF), the Civil Defence Forces (CDF) and the Movement of Concerned Kono Youth (MOCKY). The mission also met with Traditional Leaders, and on the margins of a tripartite meeting between the United Nations Mission in Sierra Leone (UNAMSIL), RUF and the Government of Sierra Leone, it met with the RUF political leadership to answer questions pertaining to all aspects of the Special Court.

6. At the working group level, the Planning Mission assessed the locally available resources, re-assessed the needs of the Special Court and developed an operational plan for the different organs of the Court. The Interim Prosecutor and two investigators met with members of the police and security forces, the Director of Public Prosecutions, the Director of Prisons, the Chief Justice and members of the Bar Association, human rights organizations and the UNAMSIL Human Rights Section to assess the availability of any information or evidentiary material in their possession. The Interim Registrar and Administrative Officers met with the High Court Registrar and court management officers to review the Registrar's system in place and assess the availability of local staffing resources and the possibility of sharing existing infrastructures. The Registry team met with the UNAMSIL Administration to assess its capacity to assist in the initial stage of the

establishment and operation of the Special Court. The building management expert, along with the Registrar, the Administrative Officers and the Security Coordinator, met with representatives of the Ministry of Lands and the Ministry of Works to discuss the logistical aspects of the temporary and permanent premises of the Special Court and the detention facilities as well as security requirements for the premises, archives, investigations and the staff of the Court.

7. As part of the Secretary-General's statutory responsibilities under the Agreement, the Office of Legal Affairs engaged in consultations with the Attorney General of Sierra Leone on the candidates for judges, the Prosecutor and the Deputy Prosecutor, and discussed the practical implementation of the Agreement in the legal system of Sierra Leone. The Office of Legal Affairs and the Office of the United Nations High Commissioner for Human Rights convened the second session of the Group of Experts on the Relationship between the Truth and Reconciliation Commission and the Special Court and recommended a general framework of principles which might govern the relationship between the two institutions.

8. The present report contains, by way of conclusions, the recommendations of the Planning Mission on the organization of the start-up phase and all aspects of the establishment and operation of the Special Court.

II. General observations

9. Since 14 August 2000, when the Security Council first requested the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent Special Court and since the first exploratory visit by a United Nations team in September 2000 (S/2000/915), Sierra Leone has undergone a period of difficult post-conflict peacekeeping and peace-building in which UNAMSIL has played a significant role. During the period of the Planning Mission's visit, the successful conclusion of the disarmament programme was celebrated with a symbolic arms destruction ceremony on 17 January 2002, an official declaration ending the war was signed by the Government, RUF and CDF on 18 January 2002, and preparations for national elections to be held on 14 May 2002 commenced. It is important to recognize that the establishment and operation of the Special Court is not taking place as an isolated event,

but rather as part of a complex and multifaceted peace process.

10. In its various formal and informal meetings with government representatives, UNAMSIL staff and military personnel, representatives of civil society and individuals, members of the Planning Mission were able to appreciate the seriousness of the debate on the timing of the establishment of the Special Court; the high level of expectations for the early establishment of the Court combined with fears, concerns and misconceptions in some quarters, as to its role and jurisdictional scope; the availability of local resources; the willingness on the part of the Government to assist, despite its limited ability to do so; and the paramount role that UNAMSIL can play in the initial and subsequent stages of the operation of the Special Court.

11. Along with the high level of expectations among the people of Sierra Leone, concerns were expressed by all sectors of society that the judicial process should be fair, impartial and comprehensive in its temporal and territorial reach, and that the Special Court be, and should be seen to be, independent of both the Government and the United Nations. Since last year, UNAMSIL has been conducting a wide campaign of sensitization both on the Special Court and on the Truth and Reconciliation Commission in collaboration with local and international NGOs. Notwithstanding this laudable effort, concerns and misconceptions persist which must, as a matter of priority, be allayed. It is proposed, therefore, that a dynamic strategy of dissemination of information and education should be developed by the Special Court for the general public. This outreach campaign would explain the nature of the Special Court, its territorial, temporal and personal scope of jurisdiction, and the relationship between the Special Court and the Truth and Reconciliation Commission. The campaign should be multifaceted and adapted to the needs of specific groups, such as victims, ex-combatants and children.

12. In assessing the availability of local resources, the Planning Mission found that in almost all areas of the operation of the Special Court the resources at the national level were either non-existent or extremely scarce. However, an important exception to the scarcity of local resources is the availability of human resources, in particular in the legal profession. Having met with many of the Sierra Leonean members of the legal profession, the Planning Mission is convinced that, while not experienced in the relevant fields of

international criminal law, with the necessary training, they could render an important contribution to the work and success of the Special Court.

13. Given the scarcity of local resources, the ability to rely on the existing administration and infrastructure of UNAMSIL in the initial stage of the operation of the Special Court, indeed for the duration of their simultaneous operations, would ensure a quick and cost-effective start-up of its operation. The sharing of resources is not only justified as a matter of United Nations policy, for both operations represent parts of the overall United Nations involvement in Sierra Leone, but is also administratively sound and financially cost-effective. While noting that the different financial bases of the two United Nations operations make the sharing of administrative resources more complicated than would have otherwise been the case had both operations been established as subsidiary organs of the United Nations, the difficulties are not insurmountable.

14. In developing a road map for the establishment and operation of the Special Court, the Planning Mission revisited the earlier recommendations on the premises, assessed the existing local resources in the different areas of operation of the Special Court, reassessed the needs of the Office of the Prosecutor and the Registry in terms of funds, equipment and personnel, developed an organizational plan for both organs and a plan of operation with a tentative timetable. The following sections describe the selection of the premises, the structure, functions and staffing of the Office of the Prosecutor and the Registry, the role of the Management Committee and the relationship between the Special Court and the Truth and Reconciliation Commission. A comprehensive operational plan for the start-up phase of the operation of the Special Court concludes the recommendations of the Planning Mission.

III. Premises

15. The Secretary-General's report on the establishment of a Special Court for Sierra Leone (S/2000/915) had concluded, on the basis of the assessment made by the United Nations team in September 2000, that none of the facilities and buildings proposed by the Government of Sierra Leone to accommodate the Special Court and its detention facilities were suitable, for reasons of either cost or

security. It was the recommendation of the United Nations team that the option of prefabricated, self-contained structures erected on government land should be adopted. That option, it was argued, would be cost-effective and rapid and would have the additional advantages of an easy expansion paced with the growth of the Special Court and a salvage value at the completion of its activities. It was also the recommendation of the United Nations team that the Central Prison at Pademba Road could not be utilized due to the lack of space and security measures, but that the New England Prison could be utilized if it were renovated and secured. Those recommendations were in part reconsidered by the Planning Mission in the light of changing circumstances.

16. In assessing the availability and suitability of the locations offered by the Government for the premises of the Special Court, the Planning Mission examined both permanent and temporary premises which could be made readily available pending the completion of the permanent site. It determined the requirements of the permanent premises to include, as a minimum, the following:

- **One courtroom and associated support space** such as a public gallery, witness waiting rooms, holding cells for the accused and rooms for interpreters and audio-visual technicians, as well as additional space to accommodate a second Trial Chamber and an Appeals Chamber.
- **Office and other support space** such as ablutions, storage, meeting rooms, LAN/PABX (telephone system) rooms, evidence vaults and law library.

A. Permanent premises

17. The building management expert, together with his government interlocutors, the directors of Public Works, Lands and Prisons, visited a number of government-owned properties. These included the City Hall, the United Nations Building, the Old Election Office and the Brookfields Hotel. All of these structures, however, are in need of substantial repair, some are occupied and others are located in the centre of the Freetown business district and are thus considered too risky for holding high-profile trials. Judging these structures to be unsuitable to accommodate the Special Court, the Planning Mission

requested the Government of Sierra Leone to make available the land adjacent to the New England Prison for the permanent premises of the Special Court. The proximity of the Court to the Detention Facility will have the advantage of reducing the risk of exposing the detainees travelling on the public highway to and from the Court. The cost of construction for the permanent premises on the New England site is estimated at US\$ 4,435,250.00.

18. In reconsidering the previous recommendation for prefabricated structures, the Planning Mission took account of the Government's request that the Court's building should be a permanent structure, and the intention expressed by a number of donor countries that the Court building and other facilities should be turned over to the Government of Sierra Leone at the end of the operation of the Special Court. With no apparent advantage of a salvage value, therefore, the Planning Mission recommended that the courthouse should be constructed as a permanent building and the office facilities accommodated in a prefabricated structure.

19. The advantages of prefabricated structures lie in the speed at which they can be obtained and erected, and in their flexibility of use. As the Special Court evolves through a rapid growth phase, a plateau phase and a downsizing phase, its space needs will change. Unlike a permanent structure, therefore, which imposes severe limitations on the re-allocation of space, particularly between the organs of the Registry, the Chambers and the Office of the Prosecutor, prefabricated modular construction is flexible and office units can be relatively easily added on or moved to where they are most needed.

20. The planning for the construction process should take into account the rainy season, which begins at the end of May and ends sometime in October. Accordingly, concrete elements of the construction, such as the perimeter wall, will have to be substantially completed by then. If the office complex were not to be fully completed beforehand, a contingency plan would have to be developed. It is estimated that if construction of the courthouse begins at the end of the wet season, it will in all likelihood not be completed before April 2003.

B. Temporary premises

21. With the prospects of completing the permanent premises for the Special Court by April 2003 at the earliest, the need for temporary premises is acute. In order to accommodate the start-up teams of the Office of the Prosecutor and the Registry, the Government has offered a building in the compound of the Bank of Sierra Leone complex free of rent, and with few security-related adjustments, ready to use. In addition, the Registrar of the Freetown High Court has offered the use of one of the courtrooms and a small room for closed hearings, should hearings be conducted before April 2003. In such an eventuality, a contingency plan for special security arrangements will have to be put in place.

C. Detention facilities

22. The Planning Mission visited two possible sites for detention facilities: the New England Prison, recommended by the United Nations team following its September 2000 visit, and the demolished Masanki Maximum Security Prison. The latter is a site 40 kilometres south-east of Freetown and is a minimum of 1 hour and 30 minutes away by car. It was the view of the Planning Mission that, as the Court facilities will be located in Freetown, it would not be advisable to have the detention facilities located at a great distance, as the risk exposure in transporting the accused is too great, and the additional costs for armoured vehicles and security forces, too high.

23. The Planning Mission was thus able to confirm the previous finding of the United Nations team that, if renovated to provide for the minimum requirements for detention facilities, the New England Prison could be utilized for the Detention Facility of the Special Court. The renovation of the existing structure, however, is not expected to be completed before the end of September 2002.

D. The role of the United Nations Office for Project Services in the procurement of design and construction services

24. Given its experience and expertise in the region, the Planning Mission recommends that the services of UNOPS be retained for the purpose of procuring design

and construction materials and services on behalf of the Special Court and under its authority.

E. Residential accommodation for international staff

25. The Planning Mission has enquired into the availability of suitable accommodation for the international staff of the Special Court in the more secure area of the western part of the city. The cost varies between \$1,000.00 and \$1,800.00 per month for rent, with the average being \$1,500.00. Availability at this time is poor and is likely to become worse in the period leading up to the elections, but it is anticipated to improve thereafter.

IV. The Office of the Prosecutor

A. Availability of evidentiary material

26. In regard to available evidentiary material on the crimes falling within the jurisdiction of the Special Court, the Interim Prosecutor found that it was of limited utility and that substantial investigations would be required in order to bring indictments. The only reliable material available is held by the Sierra Leonean police. Such material, however, pertains exclusively to the period following the 1999 Lomé Agreement, partly because certain assumptions had been made in implementation of the amnesty provision of that Agreement, and partly because of the decimation of the police force and the destruction of the headquarters of the Criminal Investigation Department by rebel forces in 1999. With few exceptions, therefore, there is virtually no evidentiary material for the bulk of the crimes committed against the people of Sierra Leone in the decade-long conflict. Information of a general nature on crimes committed in Sierra Leone, however, has been collated by the UNAMSIL Human Rights Section, the civilian police and military intelligence, as well as by non-governmental organizations, Traditional Leaders and churches. While not in a form appropriate for use in court, such material may be valuable as a lead for further investigations.

27. In the assessment of the Interim Prosecutor, therefore, the paucity of detailed, reliable evidentiary

material places a significant burden on the investigative functions of the Office of the Prosecutor.

B. Tentative prosecutorial strategy

28. Developing a prosecutorial strategy is in essence the attribution of concrete content to the notion of "those who bear the greatest responsibility" in terms of the numbers and the identity of potential indictees. Based on the concept laid down in the Secretary-General's earlier report as further developed in subsequent discussions with the members of the Security Council and the Government of Sierra Leone, the personal jurisdiction of the Special Court includes primarily those in political and military leadership positions. It would not exclude, however, others in command authority singled out by the gravity of the crime committed, its massive scale or heinous nature. Two other categories of persons, never before prosecuted by an international jurisdiction, also fall within the jurisdiction of the Special Court, namely, peacekeepers and juveniles. However, in both these categories substantial conditions must be fulfilled prior to a possible prosecution by the Special Court. In the case of peacekeepers, the State of nationality must be either unable or unwilling to prosecute, while in the case of juveniles the Prosecutor must show that all alternative options to prosecution, including the Truth and Reconciliation Commission, have been explored, exhausted and rejected for justifiable reasons.

29. The limited duration of the Special Court, its reduced budget and voluntary financing dictate the need for an exceptionally clear and well-defined prosecutorial strategy. It should, nonetheless, be inclusive of persons of all political affiliations and encompass the crimes committed throughout the country during the relevant period. In developing a prosecutorial strategy, the Prosecutor, bearing in mind the limitations of the evidentiary material, will as a first step be required to "map the conflict", reconstruct the history of the hostilities and study the organizational and command structure of the different factions and the means of their financial support. On the basis of this study, an investigation launched into the crimes committed would lead the Prosecutor to "those who bear the greatest responsibility" and enable him or her to establish a limited but comprehensive list of indictees on the basis of the parameters indicated. While the Planning Mission, in fulfilling its terms of

reference has reached certain conclusions as to the tentative prosecutorial strategy, it nevertheless recognizes that the selection for prosecution of those "who bear the greatest responsibility" necessarily entails a measure of discretion on the part of the Prosecutor both as to the identification of individual indictments and to any priority that may be assigned to them.

C. Structure and staffing requirements of the Office of the Prosecutor

30. To ensure the successful implementation of a prosecutorial strategy in the circumstances of Sierra Leone, the Planning Mission recommended the following structure and staffing table for the Office of the Prosecutor.

31. The Office of the Prosecutor should comprise a Trial Section and an Investigations Section, each reporting to the Prosecutor through the Deputy Prosecutor. The two sections would work closely with each other, with investigations conducted on the basis of advice provided by the Trial Section. An Evidence and Analysis Section, headed by a trial lawyer, should serve both the Trial Section and the Investigations Section.

32. With relatively small-scale Trial and Investigations sections, both the Prosecutor and the Deputy Prosecutor will be required to perform court functions. The need for a Chief of Prosecutions could be dispensed with, and only two Senior Trial Attorneys would be necessary. Three Prosecution Teams shall serve in the Trial Section each with a leader (Prosecutor, a Deputy Prosecutor or a Senior Trial Attorney), one Trial Attorney, one Assistant Trial Attorney or Assistant Legal Adviser, and one Case Manager. Under the control of a Chief of Investigations, three Investigation Teams should serve in the Investigations Section, each of which should comprise one Team Leader, two Senior Investigators, six Investigators and two Associate Investigators. Each Investigation Team should be split further into two smaller teams of one Senior Investigator, three Investigators and one Assistant Investigator. The Evidence and Analysis Section should have a Chief and an Evidence Custody Officer, supported by General Service or local staff. This section should be the first to start in order to take possession of, process and assess the available material.

V. The Registry

33. The Registry of the Special Court will be responsible for a broad range of administrative and judicial services to the Court. The administrative or non-judicial aspects of the Registry will entail personnel, finance, procurement, information technology, transportation, buildings management, detention facilities, and security and safety. The judicial services will include court management and responsibility for witness and victims support.

34. With a view to ascertaining the local availability of facilities, personnel and services, the Registry component in the Planning Mission carried out extensive discussions with representatives of government authorities and the administration of justice, on the basis of which it concluded that no such resources could be made available by the Government. The mission was advised, however, that there was a pool of candidates available with expertise in legal and judicial issues who would be interested in opportunities with the Special Court. Moreover, the mission was informed that it might be possible to benefit from the temporary secondment of a number of staff from the High Court in Freetown while the necessary recruitment process is undertaken by the Registry.

Possible relationship with UNAMSIL

1. Administration

35. The Registry component of the Planning Mission held discussions with virtually all facets of the UNAMSIL administration with a view to determining if UNAMSIL, given its administrative capacity, could, in the short and the long run, serve both UNAMSIL and the Special Court, thereby avoiding a duplication of similar if not identical functions. It is understood, however, that the assistance of UNAMSIL in areas of commonalities would be on a reimbursable basis, and provided at no or negligible cost to UNAMSIL.

36. During the discussions it was determined that the key areas where use of existing UNAMSIL infrastructure could eliminate the need for establishing separate administrative services for the Special Court would be in personnel administration, communication, transport, finance and procurement. As a follow-up to meetings with the UNAMSIL administration, two different options were prepared by the Planning

Mission, one to reflect the Special Court with a completely independent administrative infrastructure, and another reflecting a reliance on certain UNAMSIL units, while at the same time providing some support staff to augment these administrative units in UNAMSIL. In comparing the two options, the Planning Mission concluded that even with the additional support staff provided to UNAMSIL, there would be a difference of 12 to 15 fewer international staff, and the cost savings in the administration area alone would be quite significant. Given, in addition, the fact that the banking system in Sierra Leone is practically non-existent, the assistance of UNAMSIL in transferring and safeguarding the funds provided to the Special Court would be crucial.

2. Communications

37. In addition to the administrative functions in UNAMSIL, the Planning Mission took special note of the communications facilities already established for UNAMSIL which could be expanded at marginal costs to provide services to the Special Court. This would eliminate the need for the Court to duplicate the expensive installation of communications satellite equipment. In connection with the above, it should be noted that since the communications infrastructure in Sierra Leone does not meet the necessary reliability requirements of the Special Court, there is no alternative but to set up independent facilities, or to join in the use of UNAMSIL facilities.

3. Transportation

38. Discussions with UNAMSIL confirmed that long-term assistance could be provided, if mandated by the Security Council. Any immediate assistance by the UNAMSIL Transportation Service would be difficult in the period leading to the elections; thereafter, however, maintenance of Special Court vehicles could be carried out by UNAMSIL on a fee-for-service basis, or by providing some additional support staff to UNAMSIL. Moreover, certain other transportation assistance such as travel throughout the country could be considered, subject to availability of space on scheduled UNAMSIL flights. This assistance would be crucial since much of the investigative work undertaken by the Office of the Prosecutor would have to be carried out in the field and the roads in Sierra Leone are practically impassable, especially after the onset of the rainy season.

39. The conclusion reached following the discussions with the UNAMSIL administrative units was that significant economies could be achieved by utilizing the infrastructure already in existence in UNAMSIL if the respective UNAMSIL administrative units were augmented by additional support staff provided by the Court, and on the understanding that the provision of assistance to the Special Court would have to be introduced into the mandate of UNAMSIL.

40. While the interviews with UNAMSIL were primarily with administrative units, the Planning Mission was cognizant of the issue of possible medical support for the officials of the Special Court and for detainees once they arrived. In that regard, it was noted that UNAMSIL has a medical support unit up to level three which would provide psychological comfort to the staff of the Special Court.

41. While members of the Planning Mission were of the view that many aspects of the UNAMSIL operation could support the Special Court on a cost-reimbursable basis or at marginal additional costs, UNAMSIL officials pointed out the possibility that the UNAMSIL mandate might be discontinued prior to the Special Court having completed its work. The implications of this point were clearly understood by the Planning Mission. Nevertheless, it remained the view of the mission that, since significant economies could be achieved by maintaining common administrative processes with UNAMSIL, the UNAMSIL support option should be considered for as long as it was available. In the event that UNAMSIL demobilizes before the completion of the activities of the Special Court, installed equipment and materials could be transferred on a cost-recoverable basis to the Special Court.

VI. Security

42. A Security Office within the Registry will be responsible for monitoring and advising on local security conditions, conducting risk assessments, preparing and maintaining emergency security contingency plans, liaising with local authorities, conducting appropriate investigations of security violations and providing security orientation briefings and training. It shall also be responsible for the security guard force, security control centre and associated security equipment (CCTV/alarms). The Security Office shall be headed by a Chief Security Officer and

Deputy Chief Security Officer. Given the confidential nature of the material processed, a secretary at the international level would be assigned to the Office.

43. Security to the Special Court shall be provided to the premises, the judges and in residential areas.

(a) **External security.** Security outside the perimeters of the entire Special Court complex shall be the responsibility of the Government of Sierra Leone. The Government will pay the salaries and other entitlements of the Security Officers and the Special Court will provide the logistical support required. The number of police officers required will be determined in consultation with the operational staff of the Inspector General of the Sierra Leone Police Force.

(b) **Internal security.** Security within the perimeter of the Special Court (Chambers, Office of the Prosecutor and Registry) will be provided by a locally recruited security force on a 24-hour basis. The force will provide security control centre operation, access control, fire safety and internal security. It will be hired, trained and operated by the Deputy Chief Security Officer and under international supervisors.

(c) **Detention facilities.** The Sierra Leone Prison Service will provide the prison officers required to operate the Detention Facility and pay their salaries and other entitlements. The Special Court will provide an international Corrections Officer and supervisors to provide for 24-hour operation of the Detention Facility. It will provide additional training in the operation of the facility and all special equipment, as may be required.

(d) **Protective detail.** The Chief Security Officer will be responsible for the personal protection of the judges and, if circumstances dictate, the Prosecutor and the Registrar as well. Each judge will be assigned one Security Officer to provide personal protection during working hours. Three Security Officers will be assigned to protective detail in the initial period. With the appointment of additional judges, the number of Security Officers will be adjusted accordingly.

(e) **Residential security.** Currently there are reimbursable residential security measures approved and in effect for all internationally recruited staff in Sierra Leone. Such measures should be provided also to all internationally recruited staff of the Special Court, including judges.

44. It should be noted that in the current security phase in effect, Sierra Leone has been classified as a non-family duty station. If, however, the security situation improves to allow a reclassification of Sierra Leone as a family duty station, a number of additional administrative elements, such as the availability of schools, medical facilities and support, suitable housing and other associated issues, will also have to be examined before such a reclassification becomes possible.

VII. The Management Committee

45. In the course of the discussions held between the Secretariat and Member States regarding the implementation of the Security Council resolution requesting that the Secretary-General enter into an agreement with the Government of Sierra Leone to establish the Special Court, an informal group of interested Member States was formed. The need to ensure the cooperation and assistance of interested States in the establishment and continued operation of the Special Court, as well as the necessity of providing the Court with an oversight mechanism for its non-judicial functions, in turn gave rise to the creation of a Management Committee composed largely of major donors to the Special Court (Canada, Netherlands, Nigeria, Lesotho, United Kingdom of Great Britain and Northern Ireland and United States of America). While not an organ of the Special Court in a formal sense, the Management Committee is nevertheless recognized in the Agreement between the United Nations and the Government of Sierra Leone. According to article 7 of the Agreement, its functions are as follows:

"It is the understanding of the Parties that interested States will establish a management committee to assist the Secretary-General in obtaining adequate funding, and provide advice and policy direction on all non-judicial aspects of the operation of the Court, including questions of efficiency, and to perform other functions as agreed by interested States. The management committee shall consist of important contributors to the Special Court. The Government of Sierra Leone and the Secretary-General will also participate in the management committee."

The functions of the Management Committee are more fully elaborated in the terms of reference of the

Management Committee, contained in appendix III to the present report.

46. Representatives of Canada, the Netherlands, Lesotho, the United Kingdom and the United States participated in the Planning Mission in their capacity as members of the Management Committee. They took part in all aspects of the work of the Planning Mission, as well as in the development of the operational plan for the Special Court contained in this report. The presence of the State representatives on the Planning Mission was a physical demonstration to the people of Sierra Leone of the commitment of the international community to the Special Court. For the members of the Management Committee it was an invaluable opportunity to familiarize themselves with the political and legal environment in Sierra Leone, as well as the infrastructure difficulties that the Special Court faces. The opportunity to observe first hand the laying of the foundation of the Special Court will assist the Committee in fulfilling its functions of providing advice, oversight and policy direction on all institutional aspects of the operation of the Special Court.

47. As the operation of the Special Court progresses, the Management Committee will, pursuant to article 7 of the Agreement, review periodically all non-judicial operations of the Court and exercise its oversight role through receipt of regular reports on the operations, financial status and administration of the Court, as well as through meetings with the principal officers of the Court as appropriate. The Management Committee will report to the Group of Interested States at regular intervals. Despite its informal character, as the Special Court evolves it is likely that the Management Committee itself will play an increasingly important role in advising the senior management of the Court with regard to any non-judicial problems that may be brought to its attention.

VIII. Relationship between the Truth and the Special Court

48. As the establishment of the Special Court for Sierra Leone has become imminent, the question of the relationship between the Truth and Reconciliation Commission and the Special Court has become urgent. The Commission, which was established by the Sierra Leone Truth and Reconciliation Act, 2000, and the

Special Court have distinct purposes, and have different legal bases and mandates. Yet their subject matter, and personal and temporal jurisdiction intersect, hence the need to clearly identify the linkages and potential cleavages between them.

49. The earlier report of the Secretary-General recognized the need for the conclusion of cooperative arrangements between the Truth and Reconciliation Commission and the Special Court but left the determination of such arrangements to the two institutions, once they are established. In the period which has ensued, however, the uncertainty as to the scope of amnesty still recognized under the national law of Sierra Leone but which is explicitly excluded by the Statute of the Special Court, the lack of clarity as to their modes of simultaneous operation, and concerns on the part of perpetrators that an appearance before the Truth and Reconciliation Commission could no longer immunize them from prosecution, made necessary a preparatory process designed to elucidate some of these questions.

50. The relationship between the Special Court and the Truth and Reconciliation Commission was discussed in a workshop jointly organized by the Government of Sierra Leone and UNAMSIL in Freetown, in November 2000, and subsequently in a meeting held in May/June 2001 on the protection of children before the Commission. Participants in those meetings included representatives of the various United Nations offices involved in the Special Court, the Truth and Reconciliation Commission and children (the Office of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund, the Office of the Special Representative of the Secretary-General for Children in Armed Conflict, the Office of Legal Affairs and UNAMSIL), representatives of the Government of Sierra Leone, civil society — both national and international non-governmental organizations — and individual experts.

51. The preparatory process culminated in a two-session meeting of a Group of Experts jointly convened by the Office of the United Nations High Commissioner for Human Rights and the Office of Legal Affairs in New York in December 2001 and in Freetown in January 2002, to discuss the relationship between the Commission and the Special Court. The purpose of the meeting was to identify areas of cooperation and potential conflict between the two institutions and to recommend modalities of

cooperation and means of avoiding conflict. Another purpose was to recommend guidelines for the cooperative arrangements between the Commission and the Special Court for the consideration of the members of the Commission and the Prosecutor, once they are appointed.

52. The Group of Experts analysed the different legal bases for the establishment of the two institutions, their respective mandates and jurisdictional scope, and their implications for the relationship between the two institutions. It discussed a range of issues pertaining to information-sharing between the Truth and Reconciliation Commission and the Special Court, their respective powers to compel the appearance of witnesses and accused and the submission of evidentiary material, the treatment of juveniles and a public information campaign.

53. There was a general agreement that the following principles should guide the two institutions in developing their modalities of cooperation:

(a) **The principle of complementarity.** The Special Court and the Truth and Reconciliation Commission perform complementary roles in achieving accountability, deterrence, story-telling and national reconciliation;

(b) **Independent nature of both institutions.** The Special Court and the Commission should operate in a complementary and mutually supportive manner and in full respect for each other's mandate, independence and their distinct but related functions;

(c) **Setting of priorities.** While respectful of each other's mandate, an agreed set of priorities for each institution in clearly defined areas, circumstances and conditions is a means to ensure cooperation in areas of potential conflict.

54. In recommending guidelines for the relationship between the Truth and Reconciliation Commission and the Special Court, a distinction was drawn between areas conducive to cooperation and areas of potential conflict. In areas conducive to cooperation, it was recommended that sharing of resources, services, knowledge and expertise should be considered in matters of commonality between the two institutions, such as protection of victims and witnesses, including children, rehabilitation and reintegration programmes, joint training programmes, where appropriate, and a coordinated public awareness and education campaign

on the roles of the two institutions in general, and the relationship between the Commission and the Special Court in particular.

55. In the areas of potential conflict, such as information-sharing or the exercise of competing powers, the Expert Group made the following recommendations. When information received in confidence by the Truth and Reconciliation Commission is required by the Special Court in a case of an accused "who bears the greatest responsibility", such information should be shared with the Special Court on the following conditions: (a) the information or evidentiary material sought can only be obtained from the Commission, and (b) the evidentiary material requested is essential for the conviction or acquittal of the accused. Similarly, if both institutions exercise their powers to compel the production of the same document or evidentiary material, the person, entity or government authority faced with the competing request should inform both institutions of the fact of the competing request and seek their agreement as to which request should take precedence. If the Prosecutor has convinced the Commission that the evidentiary material sought is required and essential in the case of any one accused of bearing the greatest responsibility, the Special Court shall have priority.

56. The Group of Experts also recommended that a process of consultation should take place between the two institutions on a regular or as-needed basis, it being understood that in the final analysis it will be for the two institutions to decide on their relationship.

IX. Operational plan for the start-up phase of the Special Court

57. The signing of the Agreement between the United Nations and the Government of Sierra Leone for the Establishment of the Special Court for Sierra Leone on 16 January 2002 marks the end of one stage of the process and the beginning of a new stage of implementation and operation. As indicated at the beginning of the present report, expectations run high among all sections of Sierra Leone society that justice as well as reconciliation will be served by the Special Court and that, together with the national Truth and Reconciliation Commission, some measure of accountability and deterrence will at long last be achieved. The signing of the Agreement, therefore,

places the onus on the parties, the United Nations and the Government of Sierra Leone to bring the Special Court into operation as soon as possible.

58. The Planning Mission believes that urgent attention must be given to the fundamental issues of governance and administration of the Special Court, as well as the role of the parties, the United Nations and the Government of Sierra Leone, and of the Management Committee. In that connection, the legal nature of the Special Court as a *sui generis*, treaty-based organ, independent in its judicial functions of both the United Nations and the Government of Sierra Leone, will have to be given concrete legal content. The Special Court, the United Nations and the Government of Sierra Leone, as well as members of the Management Committee, will have to develop the legal regime applicable to the financial and administrative aspects of its operation as well as to the process of recruitment and the terms and conditions of its employees. In so doing, they should take into account the fact that while the United Nations is not, strictly speaking, the parent organ of the Special Court, it is a founding party. They should also be mindful of the fact that while the financing of the Special Court is based on voluntary contributions and not the United Nations regular budget, funds held in a United Nations trust fund are subject to the applicability of the Financial Regulations and Rules of the United Nations, with regard, in particular, to the disbursement of such funds and the activities financed therefrom. The legal implications of the relationship between the United Nations and the Special Court and the extent of the use of rules of the Organization to the non-judicial aspects of its operation will have to be resolved urgently as a prerequisite to the rapid, timely and efficient start-up of the Court.

59. The visit of the Planning Mission to Sierra Leone and its broad interaction with all segments of Sierra Leone society through public and private meetings and outreach through the radio and press created a momentum that must not be lost. The mission has thus envisaged a start-up phase of the Special Court with identifiable and achievable objectives. The gradual and sequenced implementation of these objectives together with appropriate public information dissemination will give concrete form to the Agreement as the Special Court slowly takes shape.

60. In the start-up phase of the operational plan, which should be completed by 31 May 2002, the

following actions should be taken simultaneously with regard to the premises, both temporary and permanent, the staffing of the Registry and the Office of the Prosecutor, the appointment of the judges, the Prosecutor and the Registrar, and the activities of the Chambers:

(a) Premises

(i) An agreement should be signed between the Special Court, represented by the Interim Registrar, and UNOPS, authorizing UNOPS to procure design and construction services on behalf of the Special Court and under its authority;

(ii) An agreement should be concluded between the Special Court, represented by the Registrar, and the Government of Sierra Leone for the grant of land and the construction of permanent premises;

(iii) While temporary premises are readily available, minor adjustments, such as changing the locks and installing document safes, would be required before the start-up teams could occupy the premises;

(iv) Prior to the start-up of the construction works in the New England site, the Government will have to relocate a number of civil defence forces, ex-combatants and their families currently occupying a former hotel site approximately 500 metres from the site;

(v) The construction of the permanent premises should start with design work undertaken for the New England site, a perimeter fence erected around it and the laying of a foundation for the office accommodation;

(vi) The start-up of the renovation works of the detention facilities should be undertaken, with a view to their completion by September 2002;

(b) Office of the Prosecutor

(i) An advance team of the Office of the Prosecutor should be deployed in Sierra Leone to launch the investigative and prosecutorial process. It should be composed of the Prosecutor, two Trial Attorneys, the Chief of Investigations, the Chief of Evidence, the Evidence Custody Officer, one researcher, three investigators and

four support staff. To ensure a rapid deployment, the advance team should include either staff on loan from the two ad hoc Tribunals, or personnel contributed by Governments;

(ii) The advance team should initiate the research on the history of the conflict ("map the conflict"), take into possession existing evidence from the Sierra Leone Police, UNAMSIL and NGOs, and establish an evidentiary basis from which investigations could be launched;

(c) Registry

(i) An administrative infrastructure should be developed as a matter of priority to ensure the self-sufficiency of the Special Court in all its aspects. Given the reliance of the Registry on the United Nations Administration, it is essential that a core unit of Registry personnel — composed of the Interim Registrar, a Deputy Registrar, whose functions would comprise those of the Chief of Administration as well, and a buildings management expert — should be assembled first at United Nations Headquarters for a short initial period prior to deploying to Freetown in support of the Trial Chambers and the Office of the Prosecutor;

(ii) At United Nations Headquarters, the core unit of the Registry will liaise with the appropriate offices in the Department of Management to establish the budgetary requirements, the staffing table and account structures for the Special Court, the status of personnel, and a recruitment and appointment strategy. In conjunction with the above, the appropriate administrative procedures will be established and approved. In matters related to procurement, the start-up team would have to be equipped with the necessary modalities for approving contracts and general procurement;

(iii) In addition, the core Registry unit at Headquarters would have to carry out work related to the establishment of premises for the Special Court, including preparation of a Statement of Work for a land survey and site plan, preparation of terms of reference for architectural services for the court building and procurement of design and construction services;

(iv) Once the basic administrative operating parameters have been defined and established at Headquarters, the core Registry would have to be established in Sierra Leone. The Registry advance team would include, in addition to the core Registry personnel assembled in New York, financial and personnel officers to manage and disburse the funds and establish information technology and other support systems. An Interim Chief Security Officer or Deputy Chief Security Officer would also have to be included in the Registry advance team to address all security matters arising in the start-up phase of the operation of the Court and provide support to the Prosecutor and the Interim Registrar, once in Freetown;

(d) Appointment of judges, the Prosecutor, the Deputy Prosecutor and the Registrar

(i) After having consulted with the Government of Sierra Leone on the appointment of the judges — both international and Sierra Leone nominees — the Prosecutor and the Deputy Prosecutor, the Secretary-General should, as a matter of priority, appoint the Prosecutor. Once appointed, the Prosecutor and the Government of Sierra Leone should, according to article 3 (2) of the Agreement, consult on the appointment of a Deputy Prosecutor. A Deputy Prosecutor should thereafter be appointed;

(ii) The Secretary-General should, in accordance with article 2 (2) of the Statute, appoint the international judges, two of whom should be appointed to the Trial Chamber and three to the Appeals Chamber. At the same time, the Government of Sierra Leone should appoint one judge to the Trial Chamber and two to the Appeals Chamber;

(iii) In appointing the Registrar, the Secretary-General, according to article 4 of the Agreement, should consult with the President of the Special Court. Pending the election of the President by the judges of the Court, the Interim Registrar should continue to perform his functions;

(e) Chambers

(i) The Agreement on the Establishment of the Special Court adopts a phased-in approach to the

establishment of the Special Court in accordance with the chronological order of the legal process. Accordingly, judges of the Trial Chamber shall take permanent office shortly before the investigative process has been completed, and judges of the Appeals Chamber shall take permanent office when the first trial process has been completed (article 19 (4) of the Agreement);

(ii) While it is not expected that judges would take up their judicial functions in the first phase of the operation of the Court, it is nonetheless envisaged that during that period, and shortly after their appointment, judges of both Chambers shall meet in Sierra Leone for an organizational meeting, or as may be required. The purpose of these meetings should be to elect the President of the Court and adopt the Rules of Procedure and Evidence of the Special Court. It is also recommended that a "familiarization trip" should be organized for judges of both Chambers to the International Tribunals in The Hague and in Arusha;

(ii:) When convened on the business of the Court before taking permanent office, judges shall be paid on an ad hoc basis.

61. Adherence to this schedule would mean that by the third quarter of 2002, the judges will have been appointed, the Offices of the Prosecutor and the Registry will be functioning in their temporary premises in Freetown and the construction of the permanent premises will be substantially under way. In other words, the machinery of the Special Court will be in place to enable it to function in accordance with its Statute. The first indictments and trials could be envisaged by the end of the first year of operation, which is well within the parameters of the practice of international criminal tribunals.

Appendix I

Members of the Planning Mission

List of participants

<i>Name</i>	<i>Title</i>
Mr. Hans Corell	Under-Secretary-General, The Legal Counsel
Mr. Ralph Zacklin	Assistant Secretary-General for Legal Affairs
Ms. Daphna Shrager	Senior Legal Officer, Office of Legal Affairs
Mr. Ken Lasiuk	Executive Officer, Office of Legal Affairs
Mr. Kenneth Flemming	Senior Trial Attorney, International Tribunal for Rwanda
Mr. Alfred A. Kwende	Commander of Investigations, International Tribunal for Rwanda
Mr. Marcel Savard	Chief, Division of Administration International Tribunal for Rwanda
Mr. Gerald Ganz	Office of the United Nations Security Coordinator
Mr. Robert Kirkwood	Head of Facilities Management, International Tribunal for the Former Yugoslavia
Mr. Robin Vincent	Interim Registrar (Consultant)
Sgt. Sid Gray	(Expert on Mission)
Mr. Doudou Mbye	Senior Portfolio Manager, United Nations Office for Project Services

Representatives of States

Mr. Andras Vamos-Goldman, Counsellor, Permanent Mission of Canada to the United Nations

Mr. Phakiso Mochochoko, Counsellor, Permanent Mission of Lesotho to the United Nations

Mr. Carl Peersman, First Secretary, Permanent Mission of the Netherlands to the United Nations

Ms. Alice Burnett, First Secretary, Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations

Mr. Richard Mills, Permanent Mission of the United States of America to the United Nations

Col. Mike Newton, Senior Adviser to the Ambassador-at-Large for War Crimes
Issues, United States Department of State

Permanent Mission of Sierra Leone to the United Nations

Ambassador Allieu Ibrahim Kanu

Ms. Giorgia Tortora

Appendix II

Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone

WHEREAS the Security Council, in its resolution 1315 (2000) of 14 August 2000, expressed deep concern at the very serious crimes committed within the territory of Sierra Leone against the people of Sierra Leone and United Nations and associated personnel and at the prevailing situation of impunity;

WHEREAS by the said resolution, the Security Council requested the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent special court to prosecute persons who bear the greatest responsibility for the commission of serious violations of international humanitarian law and crimes committed under Sierra Leonean law;

WHEREAS the Secretary-General of the United Nations (hereinafter "the Secretary-General") and the Government of Sierra Leone (hereinafter "the Government") have held such negotiations for the establishment of a Special Court for Sierra Leone (hereinafter "the Special Court");

NOW THEREFORE the United Nations and the Government of Sierra Leone have agreed as follows:

Article 1

Establishment of the Special Court

1. There is hereby established a Special Court for Sierra Leone to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996.

2. The Special Court shall function in accordance with the Statute of the Special Court for Sierra Leone. The Statute is annexed to this Agreement and forms an integral part thereof.

Article 2

Composition of the Special Court and appointment of judges

1. The Special Court shall be composed of a Trial Chamber and an Appeals Chamber with a second Trial Chamber to be created if, after the passage of at least six months from the commencement of the functioning of the Special Court, the Secretary-General or the President of the Special Court so request. Up to two alternate judges shall similarly be appointed after six months if the President of the Special Court so determines.

2. The Chambers shall be composed of no fewer than eight independent judges and no more than eleven such judges who shall serve as follows:

(a) Three judges shall serve in the Trial Chamber where one shall be appointed by the Government of Sierra Leone and two judges appointed by the Secretary-General, upon nominations forwarded by States, and in particular the member States of the Economic Community of West African States and the Commonwealth, at the invitation of the Secretary-General;

(b) In the event of the creation of a second Trial Chamber, that Chamber shall be likewise composed in the manner contained in subparagraph (a) above;

(c) Five judges shall serve in the Appeals Chamber, of whom two shall be appointed by the Government of Sierra Leone and three judges shall be appointed by the Secretary-General upon nominations forwarded by States, and in particular the member States of the Economic Community of West African States and the Commonwealth, at the invitation of the Secretary-General.

3. The Government of Sierra Leone and the Secretary-General shall consult on the appointment of judges.

4. Judges shall be appointed for a three-year term and shall be eligible for re-appointment.

5. If, at the request of the President of the Special Court, an alternate judge or judges have been appointed by the Government of Sierra Leone or the Secretary-General, the presiding judge of a Trial Chamber or the Appeals Chamber shall designate such an alternate judge to be present at each stage of the trial and to replace a judge if that judge is unable to continue sitting.

Article 3

Appointment of a Prosecutor and a Deputy Prosecutor

1. The Secretary-General, after consultation with the Government of Sierra Leone, shall appoint a Prosecutor for a three-year term. The Prosecutor shall be eligible for reappointment.

2. The Government of Sierra Leone, in consultation with the Secretary-General and the Prosecutor, shall appoint a Sierra Leonean Deputy Prosecutor to assist the Prosecutor in the conduct of the investigations and prosecutions.

3. The Prosecutor and the Deputy Prosecutor shall be of high moral character and possess the highest level of professional competence and extensive experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor and the Deputy Prosecutor shall be independent in the performance of their functions and shall not accept or seek instructions from any Government or any other source.

4. The Prosecutor shall be assisted by such Sierra Leonean and international staff as may be required to perform the functions assigned to him or her effectively and efficiently.

Article 4

Appointment of a Registrar

1. The Secretary-General, in consultation with the President of the Special Court, shall appoint a Registrar who shall be responsible for the servicing of the Chambers and the Office of the Prosecutor, and for the recruitment and administration of all support staff. He or she shall also administer the financial and staff resources of the Special Court.

2. The Registrar shall be a staff member of the United Nations. He or she shall serve a three-year term and shall be eligible for re-appointment.

Article 5

Premises

The Government shall assist in the provision of premises for the Special Court and such utilities, facilities and other services as may be necessary for its operation.

Article 6

Expenses of the Special Court

The expenses of the Special Court shall be borne by voluntary contributions from the international community. It is understood that the Secretary-General will commence the process of establishing the Court when he has sufficient contributions in hand to finance the establishment of the Court and 12 months of its operations plus pledges equal to the anticipated expenses of the following 24 months of the Court's operation. It is further understood that the Secretary-General will continue to seek contributions equal to the anticipated expenses of the Court beyond its first three years of operation. Should voluntary contributions be insufficient for the Court to implement its mandate, the Secretary-General and the Security Council shall explore alternate means of financing the Special Court.

Article 7
Management Committee

It is the understanding of the Parties that interested States will establish a management committee to assist the Secretary-General in obtaining adequate funding, and provide advice and policy direction on all non-judicial aspects of the operation of the Court, including questions of efficiency, and to perform other functions as agreed by interested States. The management committee shall consist of important contributors to the Special Court. The Government of Sierra Leone and the Secretary-General will also participate in the management committee.

Article 8
Inviolability of premises, archives and all other documents

1. The premises of the Special Court shall be inviolable. The competent authorities shall take appropriate action that may be necessary to ensure that the Special Court shall not be dispossessed of all or any part of the premises of the Court without its express consent.

2. The property, funds and assets of the Special Court, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

3. The archives of the Court, and in general all documents and materials made available, belonging to or used by it, wherever located and by whomsoever held, shall be inviolable.

Article 9
Funds, assets and other property

1. The Special Court, its funds, assets and other property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process,

except insofar as in any particular case the Court has expressly waived its immunity. It is understood, however, that no waiver of immunity shall extend to any measure of execution.

2. Without being restricted by financial controls, regulations or moratoriums of any kind, the Special Court:

- (a) May hold and use funds, gold or negotiable instruments of any kind and maintain and operate accounts in any currency and convert any currency held by it into any other currency;
- (b) Shall be free to transfer its funds, gold or currency from one country to another, or within Sierra Leone, to the United Nations or any other agency.

Article 10

Seat of the Special Court

The Special Court shall have its seat in Sierra Leone. The Court may meet away from its seat if it considers it necessary for the efficient exercise of its functions, and may be relocated outside Sierra Leone, if circumstances so require, and subject to the conclusion of a Headquarters Agreement between the Secretary-General of the United Nations and the Government of Sierra Leone, on the one hand, and the Government of the alternative seat, on the other.

Article 11

Juridical capacity

The Special Court shall possess the juridical capacity necessary to:

- (a) Contract;
- (b) Acquire and dispose of movable and immovable property;
- (c) Institute legal proceedings;

- (d) Enter into agreements with States as may be necessary for the exercise of its functions and for the operation of the Court.

Article 12

Privileges and immunities of the judges, the Prosecutor and the Registrar

1. The judges, the Prosecutor and the Registrar, together with their families forming part of their household, shall enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic agents in accordance with the 1961 Vienna Convention on Diplomatic Relations. They shall, in particular, enjoy:

- (a) Personal inviolability, including immunity from arrest or detention;
- (b) Immunity from criminal, civil and administrative jurisdiction in conformity with the Vienna Convention;
- (c) Inviolability for all papers and documents;
- (d) Exemption, as appropriate, from immigration restrictions and other alien registrations;
- (e) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents by the Vienna Convention;
- (f) Exemption from taxation in Sierra Leone on their salaries, emoluments and allowances.

2. Privileges and immunities are accorded to the judges, the Prosecutor and the Registrar in the interest of the Special Court and not for the personal benefit of the individuals themselves. The right and the duty to waive the immunity, in any case where it can be waived without prejudice to the purpose for which it is accorded, shall lie with the Secretary-General, in consultation with the President.

Article 13

Privileges and immunities of international and Sierra Leonean personnel

1. Sierra Leonean and international personnel of the Special Court shall be accorded:
 - (a) Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue to be accorded after termination of employment with the Special Court;
 - (b) Immunity from taxation on salaries, allowances and emoluments paid to them.
2. International personnel shall, in addition thereto, be accorded:
 - (a) Immunity from immigration restriction;
 - (b) The right to import free of duties and taxes, except for payment for services, their furniture and effects at the time of first taking up their official duties in Sierra Leone.
3. The privileges and immunities are granted to the officials of the Special Court in the interest of the Court and not for their personal benefit. The right and the duty to waive the immunity in any particular case where it can be waived without prejudice to the purpose for which it is accorded shall lie with the Registrar of the Court.

Article 14

Counsel

1. The Government shall ensure that the counsel of a suspect or an accused who has been admitted as such by the Special Court shall not be subjected to any measure which may affect the free and independent exercise of his or her functions.

2. In particular, the counsel shall be accorded:

- (a) Immunity from personal arrest or detention and from seizure of personal baggage;
- (b) Inviolability of all documents relating to the exercise of his or her functions as a counsel of a suspect or accused;
- (c) Immunity from criminal or civil jurisdiction in respect of words spoken or written and acts performed in his or her capacity as counsel. Such immunity shall continue to be accorded after termination of his or her functions as a counsel of a suspect or accused.
- (d) Immunity from any immigration restrictions during his or her stay as well as during his or her journey to the Court and back.

Article 15

Witnesses and experts

Witnesses and experts appearing from outside Sierra Leone on a summons or a request of the judges or the Prosecutor shall not be prosecuted, detained or subjected to any restriction on their liberty by the Sierra Leonean authorities. They shall not be subjected to any measure which may affect the free and independent exercise of their functions. The provisions of article 14, paragraph 2(a) and (d), shall apply to them.

Article 16

Security, safety and protection of persons referred to in this Agreement

Recognizing the responsibility of the Government under international law to ensure the security, safety and protection of persons referred to in this Agreement and its present incapacity to do so pending the restructuring and rebuilding of its security forces, it is agreed that the United Nations Mission in Sierra Leone shall provide the necessary security to premises and personnel of the Special Court, subject to an appropriate mandate by the Security Council and within its capabilities.

Article 17

Cooperation with the Special Court

1. The Government shall cooperate with all organs of the Special Court at all stages of the proceedings. It shall, in particular, facilitate access to the Prosecutor to sites, persons and relevant documents required for the investigation.

2. The Government shall comply without undue delay with any request for assistance by the Special Court or an order issued by the Chambers, including, but not limited to:

- (a) Identification and location of persons;
- (b) Service of documents;
- (c) Arrest or detention of persons;
- (d) Transfer of an indictee to the Court.

Article 18

Working language

The official working language of the Special Court shall be English.

Article 19

Practical arrangements

1. With a view to achieving efficiency and cost-effectiveness in the operation of the Special Court, a phased-in approach shall be adopted for its establishment in accordance with the chronological order of the legal process.

2. In the first phase of the operation of the Special Court, judges, the Prosecutor and the Registrar will be appointed along with investigative and

prosecutorial staff. The process of investigations and prosecutions of those already in custody shall be initiated.

3. In the initial phase, judges of the Trial Chamber and the Appeals Chamber shall be convened on an ad hoc basis for dealing with organizational matters, and serving when required to perform their duties.

4. Judges of the Trial Chamber shall take permanent office shortly before the investigation process has been completed. Judges of the Appeals Chamber shall take permanent office when the first trial process has been completed.

Article 20 **Settlement of Disputes**

Any dispute between the Parties concerning the interpretation or application of this Agreement shall be settled by negotiation, or by any other mutually agreed-upon mode of settlement.

Article 21 **Entry into force**

The present Agreement shall enter into force on the day after both Parties have notified each other in writing that the legal requirements for entry into force have been complied with.

Article 22 **Amendment**

This Agreement may be amended by written agreement between the Parties.

Article 23
Termination

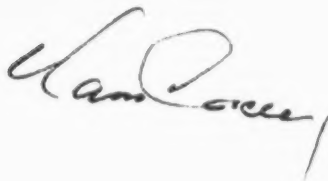
This Agreement shall be terminated by agreement of the Parties upon completion of the judicial activities of the Special Court.

IN WITNESS WHEREOF, the following duly authorized representatives of the United Nations and of the Government of Sierra Leone have signed this Agreement.

Done at Freetown, on 16 January 2002 in two originals in the English language.

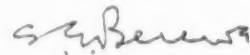
Hans Corell

For the United Nations

A handwritten signature in dark ink, appearing to read 'Hans Corell', written in a cursive style.

Solomon E. Berewa

For the Government of Sierra Leone

A handwritten signature in dark ink, appearing to read 'S. E. Berewa', written in a cursive style.

Attachment**Statute of the Special Court for Sierra Leone**

Having been established by an Agreement between the United Nations and the Government of Sierra Leone pursuant to Security Council resolution 1315 (2000) of 14 August 2000, the Special Court for Sierra Leone (hereinafter "the Special Court") shall function in accordance with the provisions of the present Statute.

Article 1**Competence of the Special Court**

1. The Special Court shall, except as provided in subparagraph (2), have the power to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996, including those leaders who, in committing such crimes, have threatened the establishment of and implementation of the peace process in Sierra Leone.

2. Any transgressions by peacekeepers and related personnel present in Sierra Leone pursuant to the Status of Mission Agreement in force between the United Nations and the Government of Sierra Leone or agreements between Sierra Leone and other Governments or regional organizations, or, in the absence of such agreement, provided that the peacekeeping operations were undertaken with the consent of the Government of Sierra Leone, shall be within the primary jurisdiction of the sending State.

3. In the event the sending State is unwilling or unable genuinely to carry out an investigation or prosecution, the Court may, if authorized by the Security Council on the proposal of any State, exercise jurisdiction over such persons.

Article 2
Crimes against humanity

The Special Court shall have the power to prosecute persons who committed the following crimes as part of a widespread or systematic attack against any civilian population:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation;
- (e) Imprisonment;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence;
- (h) Persecution on political, racial, ethnic or religious grounds;
- (i) Other inhumane acts.

Article 3
Violations of article 3 common to the Geneva
Conventions and of Additional Protocol II

The Special Court shall have the power to prosecute persons who committed or ordered the commission of serious violations of article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include:

- (a) Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- (b) Collective punishments;
- (c) Taking of hostages;
- (d) Acts of terrorism;

- (e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- (f) Pillage;
- (g) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples;
- (h) Threats to commit any of the foregoing acts.

Article 4

Other serious violations of international humanitarian law

The Special Court shall have the power to prosecute persons who committed the following serious violations of international humanitarian law:

- (a) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- (b) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (c) Conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities.

Article 5

Crimes under Sierra Leonean law

The Special Court shall have the power to prosecute persons who have committed the following crimes under Sierra Leonean law:

- (a) Offences relating to the abuse of girls under the Prevention of Cruelty to Children Act, 1926 (Cap. 31):

- (i) Abusing a girl under 13 years of age, contrary to section 6;
 - (ii) Abusing a girl between 13 and 14 years of age, contrary to section 7;
 - (iii) Abduction of a girl for immoral purposes, contrary to section 12.
- (b) Offences relating to the wanton destruction of property under the Malicious Damage Act, 1861:
- (i) Setting fire to dwelling - houses, any person being therein, contrary to section 2;
 - (ii) Setting fire to public buildings, contrary to sections 5 and 6;
 - (iii) Setting fire to other buildings, contrary to section 6.

Article 6

Individual criminal responsibility

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 4 of the present Statute shall be individually responsible for the crime.

2. The official position of any accused persons, whether as Head of State or Government or as a responsible government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

3. The fact that any of the acts referred to in articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior had failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him or her of criminal responsibility, but may be considered in mitigation of punishment if the Special Court determines that justice so requires.

5. Individual criminal responsibility for the crimes referred to in article 5 shall be determined in accordance with the respective laws of Sierra Leone.

Article 7

Jurisdiction over persons of 15 years of age

1. The Special Court shall have no jurisdiction over any person who was under the age of 15 at the time of the alleged commission of the crime. Should any person who was at the time of the alleged commission of the crime between 15 and 18 years of age come before the Court, he or she shall be treated with dignity and a sense of worth, taking into account his or her young age and the desirability of promoting his or her rehabilitation, reintegration into and assumption of a constructive role in society, and in accordance with international human rights standards, in particular the rights of the child.

2. In the disposition of a case against a juvenile offender, the Special Court shall order any of the following: care guidance and supervision orders, community service orders, counselling, foster care, correctional, educational and vocational training programmes, approved schools and, as appropriate, any programmes of disarmament, demobilization and reintegration or programmes of child protection agencies.

Article 8

Concurrent jurisdiction

1. The Special Court and the national courts of Sierra Leone shall have concurrent jurisdiction.

2. The Special Court shall have primacy over the national courts of Sierra Leone. At any stage of the procedure, the Special Court may formally request a national court to defer to its competence in accordance with the present Statute and the Rules of Procedure and Evidence.

Article 9
Non bis in idem

1. No person shall be tried before a national court of Sierra Leone for acts for which he or she has already been tried by the Special Court.

2. A person who has been tried by a national court for the acts referred to in articles 2 to 4 of the present Statute may be subsequently tried by the Special Court if:

(a) The act for which he or she was tried was characterized as an ordinary crime; or

(b) The national court proceedings were not impartial or independent, were designed to shield the accused from international criminal responsibility or the case was not diligently prosecuted.

3. In considering the penalty to be imposed on a person convicted of a crime under the present Statute, the Special Court shall take into account the extent to which any penalty imposed by a national court on the same person for the same act has already been served.

Article 10
Amnesty

An amnesty granted to any person falling within the jurisdiction of the Special Court in respect of the crimes referred to in articles 2 to 4 of the present Statute shall not be a bar to prosecution.

Article 11
Organization of the Special Court

The Special Court shall consist of the following organs:

- (a) The Chambers, comprising one or more Trial Chambers and an Appeals Chamber;
- (b) The Prosecutor; and
- (c) The Registry.

Article 12
Composition of the Chambers

1. The Chambers shall be composed of not less than eight (8) or more than eleven (11) independent judges, who shall serve as follows:

(a) Three judges shall serve in the Trial Chamber, of whom one shall be a judge appointed by the Government of Sierra Leone, and two judges appointed by the Secretary-General of the United Nations (hereinafter "the Secretary-General");

(b) Five judges shall serve in the Appeals Chamber, of whom two shall be judges appointed by the Government of Sierra Leone, and three judges appointed by the Secretary-General.

2. Each judge shall serve only in the Chamber to which he or she has been appointed.

3. The judges of the Appeals Chamber and the judges of the Trial Chamber, respectively, shall elect a presiding judge who shall conduct the proceedings in the Chamber to which he or she was elected. The presiding judge of the Appeals Chamber shall be the President of the Special Court.

4. If, at the request of the President of the Special Court, an alternate judge or judges have been appointed by the Government of Sierra Leone or the Secretary-General, the presiding judge of a Trial Chamber or the Appeals Chamber shall designate such an alternate judge to be present at each stage of the trial and to replace a judge if that judge is unable to continue sitting.

Article 13

Qualification and appointment of judges

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. They shall be independent in the performance of their functions, and shall not accept or seek instructions from any Government or any other source.
2. In the overall composition of the Chambers, due account shall be taken of the experience of the judges in international law, including international humanitarian law and human rights law, criminal law and juvenile justice.
3. The judges shall be appointed for a three-year period and shall be eligible for reappointment.

Article 14

Rules of Procedure and Evidence

1. The Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda obtaining at the time of the establishment of the Special Court shall be applicable mutatis mutandis to the conduct of the legal proceedings before the Special Court.
2. The judges of the Special Court as a whole may amend the Rules of Procedure and Evidence or adopt additional rules where the applicable Rules do not, or do not adequately, provide for a specific situation. In so doing, they may be guided, as appropriate, by the Criminal Procedure Act, 1965, of Sierra Leone.

Article 15
The Prosecutor

1. The Prosecutor shall be responsible for the investigation and prosecution of persons who bear the greatest responsibility for serious violations of international humanitarian law and crimes under Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996. The Prosecutor shall act independently as a separate organ of the Special Court. He or she shall not seek or receive instructions from any Government or from any other source.

2. The Office of the Prosecutor shall have the power to question suspects, victims and witnesses, to collect evidence and to conduct on-site investigations. In carrying out these tasks, the Prosecutor shall, as appropriate, be assisted by the Sierra Leonean authorities concerned.

3. The Prosecutor shall be appointed by the Secretary-General for a three-year term and shall be eligible for re-appointment. He or she shall be of high moral character and possess the highest level of professional competence, and have extensive experience in the conduct of investigations and prosecutions of criminal cases.

4. The Prosecutor shall be assisted by a Sierra Leonean Deputy Prosecutor, and by such other Sierra Leonean and international staff as may be required to perform the functions assigned to him or her effectively and efficiently. Given the nature of the crimes committed and the particular sensitivities of girls, young women and children victims of rape, sexual assault, abduction and slavery of all kinds, due consideration should be given in the appointment of staff to the employment of prosecutors and investigators experienced in gender-related crimes and juvenile justice.

5. In the prosecution of juvenile offenders, the Prosecutor shall ensure that the child-rehabilitation programme is not placed at risk and that, where appropriate, resort should be had to alternative truth and reconciliation mechanisms, to the extent of their availability.

Article 16
The Registry

1. The Registry shall be responsible for the administration and servicing of the Special Court.
2. The Registry shall consist of a Registrar and such other staff as may be required.
3. The Registrar shall be appointed by the Secretary-General after consultation with the President of the Special Court and shall be a staff member of the United Nations. He or she shall serve for a three-year term and be eligible for re-appointment.
4. The Registrar shall set up a Victims and Witnesses Unit within the Registry. This Unit shall provide, in consultation with the Office of the Prosecutor, protective measures and security arrangements, counselling and other appropriate assistance for witnesses, victims who appear before the Court and others who are at risk on account of testimony given by such witnesses. The Unit personnel shall include experts in trauma, including trauma related to crimes of sexual violence and violence against children.

Article 17
Rights of the accused

1. All accused shall be equal before the Special Court.
2. The accused shall be entitled to a fair and public hearing, subject to measures ordered by the Special Court for the protection of victims and witnesses.
3. The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.

4. In the determination of any charge against the accused pursuant to the present Statute, he or she shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he or she understands of the nature and cause of the charge against him or her;
- (b) To have adequate time and facilities for the preparation of his or her defence and to communicate with counsel of his or her own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing; to be informed, if he or she does not have legal assistance, of this right; and to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her;
- (f) To have the free assistance of an interpreter if he or she cannot understand or speak the language used in the Special Court;
- (g) Not to be compelled to testify against himself or herself or to confess guilt.

Article 18 **Judgement**

The judgement shall be rendered by a majority of the judges of the Trial Chamber or of the Appeals Chamber, and shall be delivered in public. It shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended.

Article 19

Penalties

1. The Trial Chamber shall impose upon a convicted person, other than a juvenile offender, imprisonment for a specified number of years. In determining the terms of imprisonment, the Trial Chamber shall, as appropriate, have recourse to the practice regarding prison sentences in the International Criminal Tribunal for Rwanda and the national courts of Sierra Leone.

2. In imposing the sentences, the Trial Chamber should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.

3. In addition to imprisonment, the Trial Chamber may order the forfeiture of the property, proceeds and any assets acquired unlawfully or by criminal conduct, and their return to their rightful owner or to the State of Sierra Leone.

Article 20

Appellate proceedings

1. The Appeals Chamber shall hear appeals from persons convicted by the Trial Chamber or from the Prosecutor on the following grounds:

- (a) A procedural error;
- (b) An error on a question of law invalidating the decision;
- (c) An error of fact which has occasioned a miscarriage of justice.

2. The Appeals Chamber may affirm, reverse or revise the decisions taken by the Trial Chamber.

3. The judges of the Appeals Chamber of the Special Court shall be guided by the decisions of the Appeals Chamber of the International Tribunals for the Former Yugoslavia and for Rwanda. In the interpretation and application of the laws of Sierra Leone, they shall be guided by the decisions of the Supreme Court of Sierra Leone.

Article 21
Review proceedings

1. Where a new fact has been discovered which was not known at the time of the proceedings before the Trial Chamber or the Appeals Chamber and which could have been a decisive factor in reaching the decision, the convicted person or the Prosecutor may submit an application for review of the judgement.

2. An application for review shall be submitted to the Appeals Chamber. The Appeals Chamber may reject the application if it considers it to be unfounded. If it determines that the application is meritorious, it may, as appropriate:

- (a) Reconvene the Trial Chamber;
- (b) Retain jurisdiction over the matter.

Article 22
Enforcement of sentences

1. Imprisonment shall be served in Sierra Leone. If circumstances so require, imprisonment may also be served in any of the States which have concluded with the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia an agreement for the enforcement of sentences, and which have indicated to the Registrar of the Special Court their willingness to accept convicted persons. The Special Court may conclude similar agreements for the enforcement of sentences with other States.

2. Conditions of imprisonment, whether in Sierra Leone or in a third State, shall be governed by the law of the State of enforcement subject to the supervision of the Special Court. The State of enforcement shall be bound by the duration of the sentence, subject to article 23 of the present Statute.

Article 23

Pardon or commutation of sentences

If, pursuant to the applicable law of the State in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the Special Court accordingly. There shall only be pardon or commutation of sentence if the President of the Special Court, in consultation with the judges, so decides on the basis of the interests of justice and the general principles of law.

Article 24

Working language

The working language of the Special Court shall be English.

Article 25

Annual Report

The President of the Special Court shall submit an annual report on the operation and activities of the Court to the Secretary-General and to the Government of Sierra Leone.

Appendix III

Terms of reference for the Management Committee for the Special Court for Sierra Leone

I. Mandate of the Management Committee

1. Pursuant to the letter of the President of the Security Council (paragraph 2 of S/2000/1234 of 22 December 2000), a Management Committee for the Special Court will be established.

II. Composition of the Management Committee

2. The Management Committee will be an informal arrangement open to important contributors to the Special Court willing to assume the functions referred to in section III of these terms of reference. The Government of Sierra Leone and the Secretary-General will also participate in the Management Committee.

III. Functions of the Management Committee

3. The Management Committee for the Special Court will, inter alia:

(a) Assist in the establishment of the Special Court, including in the identification of nominees for the positions of Registrar, Prosecutor and judges, for appointment by the Secretary-General;

(b) Consider reports of the Special Court and provide advice and policy direction on all non-judicial aspects of its operations, including questions of efficiency;

(c) Oversee the Special Court's annual budget and other financially related reports, and advise the Secretary-General on these matters;

(d) Assist the Secretary-General in ensuring that adequate funds are available for the operation of the Special Court;

(e) Encourage all States to cooperate with the Special Court;

(f) Report, on a regular basis, to the Group of Interested States for the Special Court.

IV. Secretariat services

4. The Secretary-General will provide the Management Committee with secretariat services, if required.